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सं. 37] नई दिल्ली, सितम्बर 10—सितम्बर 16, 2017, शनिवार/भाद्र 19—भाद्र 25, 1939
No. 37] NEW DELHI, SEPTEMBER 10—SEPTEMBER 16, 2017, SATURDAY/ BHADRA 19—BHADRA 25, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 12 सितम्बर, 2017

का.आ. 2167.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) नियम, 1965 में संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:—

- (1) इन नियमों का संक्षिप्त नाम केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) दूसरा संशोधन नियम, 2017 है।
- (2) ये राजपत्र में इनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. केन्द्रीय सिविल सेवा (वर्गीकरण, नियंत्रण एवं अपील) नियम, 1965 की अनुसूची के भाग 5 में क्रम सं. 1 के सामने पैरा ख में, उप पैरा (vi) के स्थान पर निम्नलिखित उप पैरा रखा जाएगा, अर्थात् :—

क्र.सं.	सेवा/पद का वर्णन	नियुक्ति प्राधिकारी	शास्ति अधिरोपित करने के लिए सक्षम प्राधिकारी एवं शास्ति जिन्हें वह अधिरोपित कर सकता है (नियम 11 में मद संख्या के संदर्भ में)	
			प्राधिकारी	शास्ति
(1)	(2)	(3)	(4)	(5)
	“(vi) नौसेना मुख्यालय	कार्मिक अध्यक्ष	कार्मिक अध्यक्ष	सभी
			पश्चिमी नौसेना कमान मुख्यालय, मुम्बई के अधिकारियों के संबंध में फ्लैग अधिकारी कमांडिंग-इन-चीफ	(i) से (iv)
			पूर्वी नौसेना कमान मुख्यालय, विशाखापत्तनम के अधिकारियों के संबंध में फ्लैग अधिकारी कमांडिंग-इन-चीफ	(i) से (iv)
			दक्षिणी नौसेना कमान मुख्यालय, कोची के अधिकारियों के संबंध में फ्लैग अधिकारी कमांडिंग-इन-चीफ	(i) से (iv)
			अंडमान एवं निकोबार कमान, पोर्टब्लेयर के अधिकारियों के संबंध में कमांडिंग-इन-चीफ	(i) से (iv)
			भारतीय नौसेना, एजीमाला में अधिकारियों के संबंध में कमाण्डेंट	(i) से (iv)
			नौसेना जलराशिक कार्यालय, देहरादून में अधिकारियों के संबंध में मुख्य जल सर्वेक्षक	(i) से (iv)
			उन्नत सामरिक जलयान कार्यक्रम, नई दिल्ली मुख्यालय में अधिकारियों के संबंध में कार्यक्रम निदेशक	(i) से (iv)
			नौसेना डॉकयार्ड, मुम्बई में अधिकारियों के लिए एडमिरल सुप्रीटेन्डेंट	(i) से (iv)
			नौसेना डॉकयार्ड, विशाखापत्तनम के संबंध में एडमिरल सुप्रीटेन्डेंट	(i) से (iv)
			गोवा क्षेत्र, गोवा में अधिकारियों के संबंध में कमांडिंग फ्लैग अधिकारी	(i) से (iv)
			कर्नाटक नौसेना क्षेत्र (करवार) मुख्यालय के अधिकारियों के संबंध में फ्लैग अधिकारी	(i) से (iv)
			नौसेना समुद्री जहाज मरम्मत यार्ड, कोचि के अधिकारियों के संबंध में एडमिरल सुप्रीटेन्डेंट	(i) से (iv)
			रक्षा मशीनरी विकास स्थापन, सिकन्दराबाद के संबंध में निदेशक	(i) से (iv)

		जहाज निर्माण केन्द्र विशाखापत्तनम के अधिकारियों के संबंध में परियोजना निदेशक	(i) से (iv)
		नौसेना शस्त्र डिपो के अधिकारियों के संबंध में मुख्य महाप्रबंधक	(i) से (iv)"

[फा. सं. 11012/01/2016-स्था.(क-III)]

ज्ञानेन्द्र देव त्रिपाठी, संयुक्त सचिव

टिप्पणी : ये मूल नियम दिनांक 20 नवंबर, 1965 की अधिसूचना संख्या 7/2/63-स्था. (क) के द्वारा भारत के राजपत्र में प्रकाशित किए गए थे और तत्पश्चात् निम्नलिखित अधिसूचना संख्याओं के द्वारा संशोधित किए गए थे:—

1. का. आ. 1149, दिनांक 13 अप्रैल, 1966;
2. का. आ. 1596, दिनांक 4 जून, 1966;
3. का. आ. 2007, दिनांक 9 जुलाई, 1966;
4. का. आ. 2648, दिनांक 3 सितंबर, 1966;
5. का. आ. 2854, दिनांक 1 अक्तूबर, 1966;
6. का. आ. 1282, दिनांक 15 अप्रैल, 1967;
7. का. आ. 1457, दिनांक 29 अप्रैल, 1967;
8. का. आ. 3253, दिनांक 16 सितंबर, 1967;
9. का. आ. 3530, दिनांक 7 अक्तूबर, 1967;
10. का. आ. 4151, दिनांक 25 नवंबर, 1967;
11. का. आ. 821, दिनांक 9 मार्च, 1968;
12. का. आ. 1441, दिनांक 27 अप्रैल, 1968;
13. का. आ. 1870, दिनांक 1 जून, 1968;
14. का. आ. 3423, दिनांक 28 सितंबर, 1968;
15. का. आ. 5008, दिनांक 27 दिसंबर, 1969;
16. का. आ. 397, दिनांक 7 फरवरी, 1970;
17. का. आ. 3521, दिनांक 25 सितंबर, 1971;
18. का. आ. 249, दिनांक 1 जनवरी, 1972;
19. का. आ. 990, दिनांक 22 अप्रैल, 1972;
20. का. आ. 1600, दिनांक 1 जुलाई, 1972;
21. का. आ. 2789, दिनांक 14 अक्तूबर, 1972;
22. का. आ. 929, दिनांक 31 मार्च, 1973;
23. का. आ. 1648, दिनांक 6 जुलाई, 1974;
24. का. आ. 2742, दिनांक 31 जुलाई, 1976;
25. का. आ. 4664, दिनांक 11 दिसंबर, 1976;

26. का. आ. 3062, दिनांक 8 अक्तूबर, 1977;
27. का. आ. 3573, दिनांक 26 नवंबर, 1977;
28. का. आ. 3574, दिनांक 26 नवंबर, 1977;
29. का. आ. 3671, दिनांक 3 दिसंबर, 1977;
30. का. आ. 2464, दिनांक 2 सितंबर, 1978;
31. का. आ. 2465, दिनांक 2 सितंबर, 1978;
32. का. आ. 920, दिनांक 17 फरवरी, 1979;
33. का. आ. 1769, दिनांक 5 जुलाई, 1980;
34. का. आ. 264, दिनांक 24 जनवरी, 1981;
35. का. आ. 2126, दिनांक 8 अगस्त, 1981;
36. का. आ. 2203, दिनांक 22 अगस्त, 1981
37. का. आ. 2512, दिनांक 3 अक्तूबर, 1981;
38. का. आ. 168, दिनांक 23 जनवरी, 1982;
39. का. आ. 1535, दिनांक 12 मई, 1984;
40. अधिसूचना सं 11012/15/84-स्था. (क), दिनांक 5 जुलाई, 1985;
41. अधिसूचना सं 11012/05/85-स्था. (क), दिनांक 29 जुलाई, 1985;
42. अधिसूचना सं. 11012/06/85- स्था. (क), दिनांक 6 अगस्त, 1985;
43. का. आ. 5637, दिनांक 21 दिसंबर, 1985;
44. का. आ. 5743, दिनांक 28 दिसंबर, 1985;
45. का. आ. 4089, दिनांक 13 दिसंबर, 1986;
46. अधिसूचना सं 11012/24/85- स्था. (क), दिनांक 26 नवंबर, 1986;
47. का. आ. 830, दिनांक 28 मार्च, 1987;
48. का. आ. 831, दिनांक 28 मार्च, 1987;
49. का. आ. 1591, दिनांक 27 जून, 1987;
50. का. आ. 1825, दिनांक 18 जुलाई, 1987,
51. का. आ. 3060, दिनांक 15 अक्तूबर, 1988;
52. का. आ. 3061, दिनांक 15 अक्तूबर, 1988;
53. का. आ. 2207, दिनांक 16 सितंबर, 1989;
54. का. आ. 1084, दिनांक 28 अप्रैल, 1990;
55. का. आ. 2208, दिनांक 25 अगस्त, 1990;
56. का. आ. 1481, दिनांक 13 जून, 1992;
57. सा. का. नि. 289, दिनांक 20 जून, 1992;
58. सा. का. नि. 589, दिनांक 26 दिसंबर, 1992;
59. सा. का. नि. 499, दिनांक 8 अक्तूबर, 1994;

60. सा. का. नि. 276, दिनांक 10 जून, 1995;
61. सा. का. नि. 17, दिनांक 20 जनवरी, 1996;
62. सा. का. नि. 125, दिनांक 16 मार्च, 1996;
63. सा. का. नि. 417, दिनांक 5 अक्तूबर, 1996;
64. सा. का. नि. 337, दिनांक 2 सितम्बर, 2000;
65. सा. का. नि. 420, दिनांक 28 अक्तूबर, 2000;
66. सा. का. नि. 211, दिनांक 14 अप्रैल, 2001;
67. सा. का. नि. 60, दिनांक 13 फरवरी, 2002;
68. सा. का. नि. 2, दिनांक 3 जनवरी, 2004
69. सा. का. नि. 249 (अ) दिनांक 2 अप्रैल, 2004
70. सा. का. नि. 113, दिनांक 10 अप्रैल, 2004;
71. सा. का. नि. 225, दिनांक 10 जुलाई, 2004;
72. सा. का. नि. 287, दिनांक 28 अगस्त, 2004;
73. सा. का. नि. 1, दिनांक 20 दिसंबर, 2004;
74. सा. का. नि. 49, दिनांक 29 मार्च, 2008;
75. सा. का. नि. 12, दिनांक 7 फरवरी, 2009;
76. का. आ. 946, दिनांक 9 अप्रैल, 2009;
77. का. आ. 1762 (अ), दिनांक 16 जुलाई, 2009;
78. सा. का. नि. 55 (अ), दिनांक 2 फरवरी, 2010;
79. सा. का. नि. 877 (अ), दिनांक 5 दिसंबर, 2011;
80. का. आ. 2079 (अ), दिनांक 20 अगस्त, 2014;
81. सा. का. नि. 769 (अ), दिनांक 31 अक्तूबर, 2014;
82. सा. का. नि. 822 (अ), दिनांक 19 नवंबर, 2014 और
83. सा. का. नि. 548 (अ), दिनांक 2 जून, 2017.

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 12th September, 2017

S.O. 2167.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1965, namely:—

1. (1) These rules may be called the Central Civil Services (Classification, Control and Appeal) Second Amendment Rules, 2017.

(2) They shall come into force on the day of their publication in the Official Gazette.
2. In the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1965, in Part V, against serial number 1, in Paragraph B, for sub paragraph (vi), the following sub-paragraph shall be substituted, namely:—

Serial No.	Description of Service/ Post	Appointing Authority	Authority competent to impose penalties and penalties which it may impose (with reference to item numbers in Rule 11)	
			Authority	Penalties
(1)	(2)	(3)	(4)	(5)
	“(vi) Naval headquarters	Chief of Personnel	Chief of Personnel	All
			Flag Officer Commanding-in-Chief in respect of officers in Headquarters Western Naval command, Mumbai;	(i) to (iv)
			Flag Officer Commanding-in-Chief in respect of officers in Headquarters Eastern Naval Command, Visakhapatnam;	(i) to (iv)
			Flag Officer Commanding-in-Chief in respect of the officers in Headquarters Southern Naval Command, Kochi;	(i) to (iv)
			Commander-in-Chief in respect of officers in Andaman & Nicobar Command, Port Blair;	(i) to (iv)
			Commandant in respect of the officers in Indian Naval Academy, Ezhimala;	(i) to (iv)
			Chief Hydrographer in respect of the officers in Naval Hydrographic Office, Dehradun;	(i) to (iv)
			Programme Director in respect of the officers in Headquarters, Advanced Tactical Vessel Program, New Delhi;	(i) to (iv)
			Admiral Superintendent in respect of the officers in Naval Dockyard, Mumbai;	(i) to (iv)
			Admiral Superintendent in respect of Naval Dockyard, Visakhapatnam;	(i) to (iv)
			Flag Officer Commanding in respect of officers in Goa Area, Goa;	(i) to (iv)
			Flag Officer in respect of the officers in Headquarters Karnataka Naval Area (Karwar);	(i) to (iv)
			Admiral Superintendent in respect of the officers in Naval Ship Repair Yard, Kochi;	(i) to (iv)
			Director in respect of the Defence Machinery Development Establishment, Secunderabad;	(i) to (iv)
			Project Director in respect of the officers in Ship Building Centre, Visakhapatnam;	(i) to (iv)
			Chief General Managers in respect of the officers in Naval Armament Depots.	(i) to (iv)”

[F. No. 11012/01/2016-Estt. (A-III)]

GYANENDRA DEV TRIPATHI, Jt. Secy.

Note : The principal rules were published in the Gazette of India vide notification number 7/2/63. Estt.(A), dated the 20th November, 1965 and subsequently amended vide notification numbers :—

1. S.O. 1149, dated the 13th April, 1966;
2. S.O. 1596, dated the 4th June, 1966;
3. S.O. 2007, dated the 9th July, 1966;
4. S.O. 2648, dated the 3rd September, 1966;
5. S.O. 2854, dated the 1st October, 1966;
6. S.O. 1282, dated the 15th April, 1967;
7. S.O. 1457, dated the 29th April, 1967;
8. S.O. 3253, dated the 16th September, 1967;
9. S.O. 3530, dated the 7th October, 1967;
10. S.O. 4151, dated the 25th November, 1967;
11. S.O. 821, dated the 9th March, 1968;
12. S.O. 1441, dated the 27th April, 1968;
13. S.O. 1870, dated the 1st June, 1968;
14. S.O. 3423, dated the 28th September, 1968;
15. S.O. 5008, dated the 27th December, 1969;
16. S.O. 397, dated the 7th February, 1970;
17. S.O. 3521, dated the 25th September, 1971;
18. S.O. 249, dated the 1st January, 1972;
19. S.O. 990, dated the 22nd April, 1972;
20. S.O. 1600, dated the 1st July, 1972;
21. S.O. 2789, dated the 14th October, 1972;
22. S.O. 929, dated the 31st March, 1973;
23. S.O. 1648, dated the 6th July, 1974;
24. S.O. 2742, dated the 31st July, 1976;
25. S.O. 4664, dated the 11th December, 1976;
26. S.O. 3062, dated the 8th October, 1977;
27. S.O. 3573, dated the 26th November, 1977;
28. S.O. 3574, dated the 26th November, 1977;
29. S.O. 3671, dated the 3rd December, 1977;
30. S.O. 2464, dated the 2nd September, 1978;
31. S.O. 2465, dated the 2nd September, 1978;
32. S.O. 920, dated the 17th February, 1979;
33. S.O. 1769, dated the 5th July, 1980;
34. S.O. 264, dated the 24th January, 1981;
35. S.O. 2126, dated the 8th August, 1981;
36. S.O. 2203, dated the 22nd August, 1981;
37. S.O. 2512, dated the 3rd October, 1981;
38. S.O. 168, dated the 23rd January, 1982;
39. S.O. 1535, dated the 12th May, 1984;
40. Notification No.11012/15/84-Estt.(A), dated the 5th July, 1985;
41. Notification No.11012/05/85-Estt.(A), dated the 29th July, 1985;

42. Notification No. 11012/06/85-Estt.(A), dated the 6th August, 1985;
43. S.O. 5637, dated the 21st December, 1985;
44. S.O. 5743, dated the 28th December, 1985;
45. S.O. 4089, dated the 13th December, 1986;
46. Notification No. 11012/24/85-Estt.(A), dated the 26th November, 1986;
47. S.O. 830, dated the 28th March, 1987;
48. S.O. 831, dated the 28th March, 1987;
49. S.O. 1591, dated the 27th June, 1987;
50. S.O. 1825, dated the 18th July, 1987;
51. S.O. 3060, dated the 15th October, 1988;
52. S.O. 3061, dated the 15th October, 1988;
53. S.O. 2207, dated the 16th September, 1989;
54. S.O. 1084, dated the 28th April, 1990;
55. S.O. 2208, dated the 25th August, 1990;
56. S.O. 1481, dated the 13th June, 1992;
57. GS.R 289, dated the 20th June, 1992;
58. GS.R. 589, dated the 26th December, 1992;
59. G.S.R. 499, dated the 8th October, 1994;
60. G.S.R. 276, dated the 10th June, 1995;
61. G.S.R. 17, dated the 20th January, 1996;
62. GS.R. 125, dated the 16th March, 1996;
63. G.S.R. 417, dated the 5th October, 1996;
64. GS.R. 337, dated the 2nd September, 2000;
65. G.S.R. 420, dated the 28th October, 2000;
66. GS.R. 211, dated the 14th April, 2001;
67. G.S.R. 60, dated the 13th February, 2002;
68. G.S.R. 2, dated the 3rd January, 2004;
69. G.S.R. 249(E) dated 2nd April, 2004
70. GS.R. 113, dated the 10th April, 2004;
71. G.S.R. 225, dated the 10th July, 2004;
72. GS.R. 287, dated the 28th August, 2004;
73. GS.R. 1, dated the 20th December, 2004;
74. G.S.R. 49, dated the 29th March, 2008;
75. GS.R. 12, dated the 7th February, 2009;
76. S.O. 946, dated the 9th April, 2009;
77. S.O. 1762(E), dated the 16th July, 2009;
78. G. S.R. 55(E), dated the 2nd February, 2010;
79. G.S.R. 877 (E), dated the 5th December, 2011;
80. S.O. 2079(E), dated the 20th August, 2014;
81. G.S.R. 769(E), dated the 31st October, 2014;
82. G. S. R. 822 (E), dated the 19th November, 2014 and
83. G.S.R. 548 (E), dated the 2nd June, 2017.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2168.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में प्रसार भारती, आकाशवाणी महानिदेशालय (सूचना और प्रसारण मंत्रालय) के निम्नलिखित अधीनस्थ कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती हैं :—

- | | |
|---|---|
| 1. आकाशवाणी, रोहतक | 9. विविध भारती सेवा, मुंबई |
| 2. आकाशवाणी, औरंगबाद | 10. आकाशवाणी, कुरुक्षेत्र |
| 3. आकाशवाणी, बेतुल | 11. आकाशवाणी, बिलासपुर |
| 4. आकाशवाणी, तिरुवनंतपुरम | 12. आकाशवाणी, बालाघाट |
| 5. आकाशवाणी, कोल्हापुर | 13. उच्च शक्ति प्रेषित्र, आकाशवाणी, मलाड, मुंबई |
| 6. विज्ञापन प्रसारण सेवा, आकाशवाणी, कटक | 14. आकाशवाणी, संबलपुर |
| 7. आकाशवाणी, धुले | 15. आकाशवाणी, रायपुर |
| 8. आकाशवाणी, कन्नूर | |

[फा. सं. ई-11017/10/2017-हिंदी]

डॉ. माधुरी गुप्ता, संयुक्त निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 11th September, 2017

S.O. 2168.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under Prasar Bharti, Directorate General, All India Radio (Ministry of Information and Broadcasting) more than 80% of the staff whereof have acquired the working knowledge of Hindi :—

- | | |
|---|--|
| 1. All India Radio, Rohtak | 9. Vividh Bharti Seva, Mumbai |
| 2. All India Radio, Aurangabad | 10. All India Radio, Kurukshetra |
| 3. All India Radio, Betul | 11. All India Radio, Bilaspur |
| 4. All India Radio, Thiruvananthapuram | 12. All India Radio, Balaghat |
| 5. All India Radio, Kolhapur | 13. High Power Transmitter, All India Radio, Malad, Mumbai |
| 6. Advertisement Broadcasting Service, All India Radio, Cuttack | 14. All India Radio, Sambalpur |
| 7. All India Radio, Dhule | 15. All India Radio, Raipur |
| 8. All India Radio, Kunnur | |

[F. No. E-11017/10/2017-Hindi]

Dr. MADHURI GUPTA, Jt. Director (O.L.)

कृषि एवं किसान कल्याण मंत्रालय
(कृषि, सहकारिता एवं किसान कल्याण विभाग)

नई दिल्ली, 6 सितम्बर, 2017

का.आ. 2169.—केन्द्रीय सरकार बहु-राज्य सहकारी समिति नियमावली, 2002 की नियम 31 की उप-धारा (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्रीमती उपमा श्रीवास्तव, आईएएस, (एस.के. 88), अपर सचिव, भारत सरकार, कृषि एवं किसान कल्याण मंत्रालय, कृषि, सहकारिता एवं किसान कल्याण विभाग को एमएससीएस अधिनियम, 2002 की धारा 99 की उप-धारा (2) के उद्देश्य के लिए अपीलीय प्राधिकारी के रूप में नियुक्त करते हैं।

[फा. सं. एल-11012/2/2003-एल. एंड एम.]

सुशील कुमार झा, अवर सचिव

MINISTRY OF AGRICULTURE AND FARMERS WELFARE
(Department of Agriculture, Cooperation and Farmers Welfare)

New Delhi, the 6th September, 2017

S.O. 2169.—In exercise of the Powers conferred vide sub-rule (a) of rule 31 of the Multi State Co-operative Societies Rules, 2002, the Central Government hereby appoints Smt. Upma Srivastava, IAS (SK 88), Additional Secretary to the Government of India, Ministry of Agriculture and Farmers Welfare, Department of Agriculture, Co-operation and Farmers Welfare, as the Appellate Authority for the purpose of Sub-section (2) of Section 99 of the MSCS Act, 2002.

[F. No. L-11012/2/2003-L&M]

SUSHIL KUMAR JHA, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 12 सितम्बर, 2017

का.आ. 2170.—केन्द्रीय सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 29 जुलाई, 1995 द्वारा प्रकाशित, भारत सरकार, कोयला मंत्रालय की अधिसूचना संख्या का.आ. 2067, तारीख 11 जुलाई, 1995, को अधिकांश करते हुए, नीचे दी गई सारणी के स्तम्भ (2) में उल्लिखित अधिकारियों को जो सरकार के राजपत्रित अधिकारियों की पंक्ति के समतुल्य अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए संपदा अधिकारी नियुक्त करती है, जो, उक्त सारणी के स्तम्भ (3) में विनिर्दिष्ट सरकारी स्थानों के प्रवर्गों की बावत, उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और उस पर अधिरोपित कर्तव्यों का पालन अपनी-अपनी अधिकारिता की स्थानीय सीमाओं के भीतर करेंगे।

सारणी

क्र. सं.	अधिकारी का पदनाम	सरकारी स्थानों के प्रवर्ग और अधिकारिता की स्थानीय सीमाएं.
(1)	(2)	(3)
1.	(i) विभागीय प्रधान, विधि, ईस्टर्न कोलफील्ड्स लिमिटेड (मुख्यालय), ईस्टर्न कोलफील्ड्स लिमिटेड(ईसीएल), संकटोरिया, ज़िला बर्दवान-713333(पश्चिम बंगाल) या उनके अधिकृत प्रतिनिधि ।	झारखंड राज्य और पश्चिम बंगाल ईस्टर्न कोलफील्ड्स लिमिटेड(ईसीएल) के या उसके द्वारा या उसकी ओर से पट्टे पर लिए गए या अधिग्रहण किये गए स्थान (जिसके अंतर्गत ईस्टर्न कोलफील्ड्स लिमिटेड के मुख्यालय काम्प्लेक्स, संकटोरिया, डाकघर-दिशेरगढ़ ज़िला- बर्दवान-713333 (पश्चिम बंगाल) के स्थान भी हैं) ।
	(ii) खान अधीक्षक, भू-राजस्व, ईसीएल(मुख्यालय), ईस्टर्न कोलफील्ड्स लिमिटेड(ईसीएल), संकटोरिया, ज़िला बर्दवान- 713333 (पश्चिम बंगाल) ।	
2.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का पाण्डेश्वर क्षेत्र ।	पश्चिम बंगाल राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के झांजरा क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का पाण्डेश्वर क्षेत्र ।	
3.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का झांजरा क्षेत्र ।	पश्चिम बंगाल राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के पाण्डेश्वर क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का झांजरा क्षेत्र ।	
4.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का केन्दा क्षेत्र ।	पश्चिम बंगाल राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के बंकोला क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का केन्दा क्षेत्र ।	
5.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का बंकोला क्षेत्र ।	पश्चिम बंगाल राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के केन्दा क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का बंकोला क्षेत्र ।	
6.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का सोनपुर बाजारी क्षेत्र ।	पश्चिम बंगाल राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के काजोरा क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।

[illegible]

14.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का मुग्मा क्षेत्र ।	झारखंड राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के सोदपुर क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का मुग्मा क्षेत्र ।	
15.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का राजमहल क्षेत्र ।	झारखंड राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के एस.पी. माइंस क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का राजमहल क्षेत्र ।	
16.	(i) क्षेत्र प्रबंधक (परियोजना, संनिर्माण और विकास), ईस्टर्न कोलफील्ड्स लिमिटेड का एस. पी. माइंस क्षेत्र।	झारखंड राज्य में ईस्टर्न कोलफील्ड्स लिमिटेड के राजमहल क्षेत्र के या उसके द्वारा या उसके ओर से पट्टे पर लिए गए स्थान ।
	(ii) क्षेत्र कार्मिक प्रबंधक, ईस्टर्न कोलफील्ड्स लिमिटेड का एस. पी. माइंस क्षेत्र ।	

[फा. सं. 43022/4/2017-एलए एण्ड आईआर]

आर.एस. सरोज, अवर सचिव

MINISTRY OF COAL

New Delhi, the 12th September, 2017

S.O. 2170.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorized Occupants), Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Coal number S.O. 2067, dated the 11th July, 1995, published in the Gazette of India, Part II, Section 3 sub-section (ii), dated the 29th July, 1995, the Central Government hereby appoints the officers mentioned in column (2) of the Table below, being officers equivalent to the rank of gazetted officers of the Government to be estate Officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on the estate Officers by or under the said Act, within the local limits to their respective jurisdictions in respect of the categories of public premises specified in column(3) of the said Table.

TABLE

Sl. No.	Designation of the officer	Categories of Public Premises and local limits of jurisdiction
(1)	(2)	(3)
1.	(i) Head of Department, Legal, Eastern Coalfields Limited (HQ), Eastern Coalfields Limited (ECL), Sanctoria, District Burdwan-713333 (West Bengal) or his authorized representative.	Premises belonging to or taken on lease or requisite by or on behalf of the Eastern Coalfields Limited(ECL) in the States of Jharkhand under West Bengal (including the premises of HQ complex of the Eastern Coalfields Limited, Sanctoria, District Burdwan-713333 (West Bengal).
	(ii) Superintendent of Mines, Land Revenue, ECL (HQ), Eastern Coalfields Limited (ECL), Sanctoria, District Burdwan-713333 (West Bengal).	
2.	(i) Area Manager (Project, Construction and Development) Pandaveswar Area of ECL.	Premises belonging to or taken on lease on behalf of Jhanjra Project of Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Pandaveswar Area of ECL.	
3.	(i) Area Manager (Project, Construction and Development) Jhanjra Area of ECL.	Premises belonging to or taken on lease on behalf of Pandaveswar Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Jhanjra Area of ECL.	

4.	(i) Area Manager (Project, Construction and Development) Kenda Area of ECL.	Premises belonging to or taken on lease on behalf of Bankola Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Kenda Area of ECL.	
5.	(i) Area Manager (Project, Construction and Development) Bankola Area of ECL.	Premises belonging to or taken on lease on behalf of Kenda Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Bankola Area of ECL.	
6.	(i) Area Manager (Project, Construction and Development), Sonepur Bazari Area of ECL.	Premises belonging to or taken on lease on behalf of Kajora Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Sonepur Bazari Area of ECL.	
7.	(i) Area Manager (Project, Construction and Development) Kajora Area of ECL.	Premises belonging to or taken on lease on behalf of Sonepur Bazari Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Kajora Area of ECL.	
8.	(i) Area Manager (Project, Construction and Development), Kunustoria Area of ECL.	Premises belonging to or taken on lease on behalf of Satgram Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Kunustoria Area of ECL.	
9.	(i) Area Manager (Project, Construction and Development), Satgram Area of ECL.	Premises belonging to or taken on lease on behalf of Kunustoria Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Satgram Area of ECL.	
10.	(i) Area Manager (Project, Construction & Development), Sripur Area of ECL.	Premises belonging to or taken on lease on behalf of J.K. Ropeways Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Sripur Area of ECL.	
11.	(i) Area Manager (Project, Construction and Development), J.K. Ropeways Area of ECL.	Premises belonging to or taken on lease on behalf of Sripur Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, J.K. Ropeways Area of ECL.	
12.	(i) Area Manager (Project, Construction and Development), Sodepur Area of ECL.	Premises belonging to or taken on lease on behalf of Salanpur Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Sodepur Area of ECL.	
13.	(i) Area Manager (Project, Construction and Development), Salanpur Area of ECL.	Premises belonging to or taken on lease on behalf of Mugma Area of ECL in the State of Jharkhand.
	(ii) Area Personnel Manager, Salanpur Area of ECL.	
14.	(i) Area Manager (Project, Construction and Development), Mugma Area of ECL.	Premises belonging to or taken on lease on behalf of Sodepur Area of ECL in the State of West Bengal.
	(ii) Area Personnel Manager, Mugma Area of ECL.	
15.	(i) Area Manager (Project, Construction and Development), Rajmahal Area of ECL.	Premises belonging to or taken on lease on behalf of S.P. Mines Area of ECL in the State of Jharkhand.
	(ii) Area Personnel Manager, Rajmahal Area of ECL.	
16.	(i) Area Manager (Project, Construction and Development), S.P. Mines Area of ECL.	Premises belonging to or taken on lease on behalf of Rajmahal Area of ECL in the State of Jharkhand.
	(ii) Area Personnel Manager, S.P. Mines Area of ECL.	

[F. No. 43022/4/2017-LA&IR]

R.S. SAROJ, Under Secy.

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 8 सितम्बर, 2017

का.आ. 2171.—केंद्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम एवं गैस मंत्रालय की अधिसूचना सं. का. आ. 967(अ) तारीख 24 मार्च 2017 जो भारत के राजपत्र सं. 866 तारीख 28 मार्च 2017 को प्रकाशित की गई थी, द्वारा उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में केरल राज्य में भारत पेट्रोलियम कार्पोरेशन लिमिटेड की कोच्चि रिफाइनरी से सेलम तक द्रवित पेट्रोलियम गैस के परिवहन के लिए कोच्चि कोयम्बटूर सेलम पाइपलाइन परियोजना के माध्यम से कोच्चि सेलम पाइपलाइन प्राइवेट लिमिटेड द्वारा एक पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 10 मई 2017 से 31 मई 2017 के बीच उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केंद्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केंद्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब केंद्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग के अधिकार का अर्जन किया जाता है ;

और केंद्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केंद्रीय सरकार में निहित होने कि बजाए, सभी विल्लंगमों से मुक्त, कोच्चि सेलम पाइपलाइन प्राइवेट लिमिटेड में निहित होगा।

अनुसूची

राज्य: केरल

जिला: ऐरनाकुलम

तालुक: कणयन्नूर

नाम ग्राम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एरिया	वर्गमीटर
मणकुन्नम (खंड सं 19)	204 / 1	0	02	75
	204 / 2	0	02	80
	204 / 3	0	04	27
	204 / 4	0	05	79
	391 / 1	0	02	70
	391 / 2	0	03	25
	392 / 5	0	05	71
कुरीक्काड़ (खंड सं 11)	214 / 1	0	00	57
	214 / 7	0	00	70
कणयन्नूर (खंड सं 12)	10 / 2	0	01	16
तिरुवानकुलम (खंड सं 10)	362 / 3	0	00	88
	361 / 8	0	03	99
	361 / 9	0	04	09

[फा. सं. आर-31015/04/2015-ओ आर-II/37111]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 8th September, 2017

S.O. 2171.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas SO No. 967 (E), dated 24/03/2017 published in Govt. of India Gazette No. 866 dated 28/03/2017 issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (Central Act 50 of 1962) (herein after referred to as said Act), the Central Government declared its intention to acquire the Right of User in the land specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Liquefied Petroleum Gas from Kochi Refinery of Bharat Petroleum Corporation Limited in the State of Kerala to Salem in the State of Tamilnadu.

AND, Whereas, the copies of the said Gazette notifications have been made available to the public between 10/05/2017 to 31/05/2017.

AND, Whereas, the Competent Authority in pursuance of sub section (1) of section 6 of the said Act has submitted his report to the Central Government.

AND, Whereas, the Central Government, after considering the said report, is satisfied that the Right of User in the said land specified in the schedule appended should be acquired.

Now, therefore in exercise of the powers conferred by sub section (1) of the Section 6 of the said Act, the Central Government hereby declared that the Right of User in the Land specified in the schedule appended to this notification are hereby acquired.

AND, further, in exercise of powers conferred by sub section (4) of the section 6 of the said Act, the Central Government hereby directs that the Right of User in the said lands shall, instead of vesting in the Central Government vest free from all encumbrances in the Kochi – Salem Pipeline Private Limited.

SCHEDULE

STATE : KERALA

DISTRICT : ERNAKULAM

TALUK : KANAYANNUR

VILLAGE	SURVEY NUMBERS	AREA		
		HECTARES	ARES	SQ. MTRS
MANAKUNNAM (BLOCK. No. 19)	204/1	0	02	75
	204/2	0	02	80
	204/3	0	04	27
	204/4	0	05	79
	391/1	0	02	70
	391/2	0	03	25
	392/5	0	05	71
KUREEKKAD (BLOCK No. 11)	214/1	0	00	57
	214/7	0	00	70
KANAYANNUR (BLOCK No. 12)	10/2	0	01	16
THIRUVANKULAM (BLOCK. No. 10)	362/3	0	00	88
	361/8	0	03	99
	361/9	0	04	09

[F. No. R-31015/04/2015-OR-II/37111]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 8 सितम्बर, 2017

का.आ. 2172.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाईपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 3174 तारीख 9 दिसम्बर 2014, जो भारत के राजपत्र तारीख 13 दिसम्बर 2014, में प्रकाशित की गई थी द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उत्तर प्रदेश राज्य में जिला देवरिया में पटना – मोतिहारी – बैतालपुर तक पेट्रोलियम परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाईप लाईन बिछाने के प्रयोजन के लिए उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी :

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 11 मई 2015 तक उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाईपलाईन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाईपलाईन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी विल्लंगमों से मुक्त होकर इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगी।

पेट्रोलियम और खनिज पाईपलाईन अधिनियम, 1962 की धारा 10 के अधीन किसी भी क्षतिपूर्ति के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड पूर्णतया उत्तरदायी होगी और पाईपलाईन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तहसील : सलेमपुर		जिला : देवरिया	राज्य : उत्तर प्रदेश		
मौजा / ग्राम	सर्वे / ब्लाक / सं. (प्लोट सं.)	सब-डीव-सं..	क्षेत्रफल		
			हेक्टेयर	आरे	वर्ग मीटर
1	2	3	4	5	6
तेनुआ	282		00	08	82
तप्पा : घाटी	281		00	02	03
	283		00	00	21
	280		00	10	26
	267		00	00	40
	257		00	04	80
	258		00	04	92
	256		00	14	76
	262		00	06	66
	241		00	02	90
	240		00	11	70
	229		00	01	26
	239		00	00	85
	230		00	08	28
	231		00	06	30
	224		00	00	16
	232		00	01	62
	222		00	10	80
	308		00	01	44
	221		00	01	98
सवरेजी	1100		00	00	43
तप्पा : भटनी	157		00	00	36
अधैला	304		00	00	36
तप्पा : सठियाँव					
मिश्रौली बैद	69		00	10	21
तप्पा : घाटी					
पिपरा देवराज	139		00	07	56
तप्पा : वरसीपार					

[फा. सं. आर-25011/23/2013-ओआर-I]

पवन कुमार, अवर सचिव

New Delhi, the 8th September, 2017

S.O. 2172.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 3174 dated the 9th December, 2014, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 13th December, 2014 the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying 'Patna – Motihari - Baitalpur Pipeline Project' for the transportation of Petroleum Products in Deoria District in the state of Uttar Pradesh by Indian Oil Corporation Limited;

And whereas copies of the said Gazette notification were made available to the public up to 11th May 2015.

And whereas the competent authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in Indian Oil Corporation Limited, free from all encumbrances.

Indian Oil Corporation Limited shall be exclusively liable for any compensation in terms of Section 10 of the P & MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Tehsil : Salempur	District : Deoria		State : Uttar Pradesh		
Mouja / Village	Survey/Block No.	Sub-Div-No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
TENUA	282		00	08	82
Tappa : Ghati	281		00	02	03
	283		00	00	21
	280		00	10	26
	267		00	00	40
	257		00	04	80
	258		00	04	92
	256		00	14	76
	262		00	06	66
	241		00	02	90
	240		00	11	70
	229		00	01	26
	239		00	00	85
	230		00	08	28
	231		00	06	30
	224		00	00	16

	232		00	01	62
	222		00	10	80
	308		00	01	44
	221		00	01	98
SAVREJI	1100		00	00	43
Tappa : Bhatni	157		00	00	36
AGHAILA	304		00	00	36
Tappa : Sathiyav					
MISHROULI BAID	69		00	10	21
Tappa : Ghati					
PIPARA DEVRAJ	139		00	07	56
Tappa : Barsipar					

[F. No. R-25011/23/2013-OR-I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2173.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पारादीप (उड़ीसा) से रायपुर (छत्तीसगढ़) एवं रांची (झारखंड) तक पेट्रोलियम उत्पादों के परिवहन के लिये इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा “पारादीप-सम्बलपुर-रायपुर-रांची पाइपलाइन” बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिये यह आवश्यक प्रतीत होता है कि ऐसी भूमि, जिसके नीचे पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, में उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए, उसमें उपयोग के अधिकार का अर्जन करने के संबंध में श्री प्रेम चंद्र वर्मा, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पारादीप-सम्बलपुर-रायपुर-रांची पाइपलाइन परियोजना, ग्राउंड फ्लोर, बी-ब्लॉक, शहदेव टावर, पी.पी. कम्पाउन्ड, रांची-834001 (झारखंड) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

अंचल — बानो	जिला — सिमडेगा	राज्य — झारखण्ड		
गाँव का नाम	प्लॉट सं.		क्षेत्रफल	
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
केटका — 83	1258	00	01	90
	1265	00	00	85

	337	00	04	04
	987	00	01	40
	2184	00	08	17
	2177	00	05	18
	2182	00	00	12
	2183	00	01	76
	899	00	00	79
छोटकेतुंगा – 89	381	00	00	10
कोनसोदे – 88	1765	00	39	82
बोरोसेता – 85	580	00	00	45
	1606	00	15	85
	1705	00	01	56
	1565	00	06	07
	1563	00	05	48

[फा. सं. आर-25011/15/2017-ओआर-I]

पवन कुमार, अवर सचिव

New Delhi, the 11th September, 2017

S.O. 2173.—Whereas, it appears to the Central Government that it is necessary in the Public interest that for the transportation of petroleum products from Paradip (Orissa) to Raipur (Chhattisgarh) & Ranchi (Jharkhand), a “Paradip-Sambalpur-Raipur-Ranchi Pipeline” Should be laid by Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for purpose of laying the said pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub section (1) of section 3 of the Petroleum and minerals Pipelines (Acquisition of Right of User in-Land) Act, 1962(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, Object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Prem Chandra Verma, Competent Authority, Indian Oil Corporation Limited, Paradip-Sambalpur-Raipur-Ranchi Pipe Line Project, Ground floor, B-Block, Shahdeo Tower, P.P. Compound, Ranchi – 834001 (Jhar Khand).

SCHEDULE

Anchal : BANO		District : SIMDEGA		State : JHARKHAND	
Name of the Village	Plot No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
Ketka - 83	1258	00	01	90	
	1265	00	00	85	
	337	00	04	04	
	987	00	01	40	
	2184	00	08	17	

	2177	00	05	18
	2182	00	00	12
	2183	00	01	76
	899	00	00	79
Chhotketunga - 89	381	00	00	10
Konsode - 88	1765	00	39	82
Boroseta - 85	580	00	00	45
	1606	00	15	85
	1705	00	01	56
	1565	00	06	07
	1563	00	05	48

[F. No. R- 25011/15 /2017-OR- I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2174.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पारादीप (उड़ीसा) से रायपुर (छत्तीसगढ़) एवं रांची (झारखंड) तक पेट्रोलियम उत्पादों के परिवहन के लिये इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा “पारादीप—सम्बलपुर—रायपुर—रांची पाइपलाइन” बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिये यह आवश्यक प्रतीत होता है कि ऐसी भूमि, जिसके नीचे पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, में उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए, उसमें उपयोग के अधिकार का अर्जन करने के संबंध में श्री प्रेम चंद्र वर्मा, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पारादीप—सम्बलपुर—रायपुर—रांची पाइपलाइन परियोजना, ग्राउंड फ्लोर, बी-ब्लॉक, शाहदेव टावर, पी.पी. कम्पाउन्ड, रांची-834001 (झारखंड) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

अंचल — बॉसजोर	जिला — सिमडेगा	राज्य — झारखण्ड		
गाँव का नाम	प्लॉट सं.		क्षेत्रफल	
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
डोंगापानी — 17	2075	00	01	05
	2188	00	03	56
बोंगेरा — 16	954	00	05	18
	2508	00	04	18

[फा. सं. आर-25011/15/2017-ओआर-I]

पवन कुमार, अवर सचिव

New Delhi, the 11th September, 2017

S.O. 2174.—Whereas, it appears to the Central Government that it is necessary in the Public interest that for the transportation of petroleum products from Paradip (Orissa) to Raipur (Chhattisgarh) & Ranchi (Jharkhand), a “Paradip-Sambalpur-Raipur-Ranchi Pipeline” Should be laid by Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for purpose of laying the said pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub section (1) of section 3 of the Petroleum and minerals Pipelines (Acquisition of Right of User in-Land) Act, 1962(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, Object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Prem Chandra Verma, Competent Authority, Indian Oil Corporation Limited, Paradip-Sambalpur-Raipur-Ranchi Pipe Line Project, Ground floor, B-Block, Shahdeo Tower, P.P. Compound, Ranchi – 834001 (Jhar Khand).

SCHEDULE

Anchal : BANSJOR		District : SIMDEGA		State : JHARKHAND	
Name of the Village	Plot No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
Dongapani - 17	2075	00	01	05	
	2188	00	03	56	
Bongera - 16	954	00	05	18	
	2508	00	04	18	

[F. No. R-25011/15/2017-OR- I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2175.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि पारादीप (उड़ीसा) से रायपुर (छत्तीसगढ़) एवं रांची (झारखंड) तक पेट्रोलियम उत्पादों के परिवहन के लिये इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा “पारादीप-सम्बलपुर-रायपुर-रांची पाइपलाइन” बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिये यह आवश्यक प्रतीत होता है कि ऐसी भूमि, जिसके नीचे पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, में उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए, उसमें उपयोग के अधिकार का अर्जन करने के संबंध में श्री प्रेम चंद्र वर्मा, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पारादीप-सम्बलपुर-रायपुर-रांची पाइपलाइन परियोजना, ग्राउंड फ्लोर, बी-ब्लॉक, शाहदेव टावर, पी.पी. कम्पाउन्ड, रांची-834001 (झारखंड) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

अंचल — जलडेगा	जिला — सिमडेगा	राज्य — झारखण्ड		
गाँव का नाम	प्लॉट सं.		क्षेत्रफल	
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
पतिअम्बा — 77	3850	00	02	69
	3851	00	03	92
	3849	00	00	40
	4362	00	03	84
	3845	00	03	00
	2203	00	01	55
	4365	00	05	93
	4368	00	03	43
टांगीआ — 63	570	00	02	87
	573	00	04	01
लमडेगा — 37	108	00	00	10
	109	00	01	22

[फा. सं. आर-25011/15/2017-ओआर-I]

पवन कुमार, अवर सचिव

New Delhi, the 11th September, 2017

S.O. 2175.—Whereas, it appears to the Central Government that it is necessary in the Public interest that for the transportation of petroleum products from Paradip (Orissa) to Raipur (Chhattisgarh) & Ranchi (Jharkhand), a “Paradip-Sambalpur-Raipur-Ranchi Pipeline” Should be laid by Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for purpose of laying the said pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub section (1) of section 3 of the Petroleum and minerals Pipelines (Acquisition of Right of User in-Land) Act, 1962(50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the General Public, Object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Prem Chandra Verma, Competent Authority, Indian Oil Corporation Limited, Paradip-Sambalpur-Raipur-Ranchi Pipe Line Project, Ground floor, B-Block, Shahdeo Tower, P.P. Compound, Ranchi – 834001 (Jhar Khand).

SCHEDULE

Anchal : JALDEGA	District : SIMDEGA	State : JHARKHAND		
Name of the Village	Plot No.	Area		
		Hectare	Are	Sq.mtr.
1	2	3	4	5
Patiamba - 77	3850	00	02	69
	3851	00	03	92
	3849	00	00	40
	4362	00	03	84
	3845	00	03	00
	2203	00	01	55
	4365	00	05	93

	4368	00	03	43
Tangia - 63	570	00	02	87
	573	00	04	01
Lamdega - 37	108	00	00	10
	109	00	01	22

[F. No. R-25011/15/2017-OR- I]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 13 सितम्बर, 2017

का.आ. 2176.—सार्वजनिक परिसर (अनधिकृत कब्जाधारियों की बेदखली) अधिनियम 1971 (1971 का 40) की धारा 3 द्वारा प्राधिकृत शक्तियों का प्रयोग तथा मंत्रालय भारत सरकार की दिनांक 28 अगस्त, 2014 की अधिसूचना सं. 25015/1/2007-ओआर-1 का प्रतिस्थापन करते हुए भारत सरकार नीचे दी गई सारणी के (कालम 2) में अधिकारियों का भारत सरकार के राजपत्रित अधिकारियों के समकक्ष होने के नाते सम्पदा अधिकारी नियुक्त करती है। ये अधिकारी उक्त अधिनियम में सम्पदा अधिकारी के लिए निर्धारित शक्तियों का प्रयोग उक्त सारणी के कालम 3 में वर्णित सार्वजनिक परिसरों के लिए सीमित स्थानीय क्षेत्राधिकार के अंतर्गत अपने कार्यपालन के लिए करेंगे।

सारणी

क्र. सं.	यूनिट/कार्यालय का नाम	अधिकारी का पद	सार्वजनिक परिसरों की श्रेणियों तथा स्थानीय क्षेत्राधिकार की क्षेत्र सीमाएं
1	नई दिल्ली	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड, स्कोप कॉम्प्लेक्स, कोर-2, 7, इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली- 110003	केन्द्रशासित प्रांत दिल्ली, तथा उत्तर प्रदेश के नोएडा (नवीन ओखला औद्योगिक विकास प्राधिकरण) के अंतर्गत स्थित इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
2	गुवाहाटी रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड गुवाहाटी रिफाइनरी पी.ओ नूनमाटी, गुवाहाटी - 781020	असम राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
3	बरौनी रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड बरौनी रिफाइनरी, डाकघर बरौनी रिफाइनरी जिला बेगुसराय, बिहार - 8611164	बिहार राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
4	गुजरात रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड गुजरात रिफाइनरी, डाकघर जवाहर नगर, जिला वडोदरा, गुजरात 391320	गुजरात राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर

5	हल्दिया रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड हल्दिया रिफाइनरी, जिला मिदनापुर, पश्चिमी बंगाल- 721606	पश्चिम बंगाल राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
6	मथुरा रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड मथुरा रिफाइनरी, मथुरा – 281005 (उत्तर प्रदेश)	नवीन ओखला औद्योगिक विकास प्राधिकरण नोएडा को छोड़ कर उत्तर प्रदेश राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
7	पानीपत रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड पानीपत रिफाइनरी, हरियाणा-132140	हरियाणा राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
8	असम ऑयल डिब्रीजन	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड डिगबोई रिफाइनरी, डिगबोई – 786171 (असम)	असम राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड, असम ऑयल डिब्रीजन के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
9	पारादीप रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड पारादीप रिफाइनरी, डाकघर: झिमानी, बाया- कुजांग, जगतसिंहपुर, ओडिशा- 754141	ओडिशा राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर
10	बोंगाईगांव रिफाइनरी	उप महाप्रबंधक (प्रशासन व कल्याण) / उप महाप्रबंधक (मानव संसाधन), इंडियन ऑयल कॉर्पोरेशन लिमिटेड बोंगाईगांव रिफाइनरी, पीओ धौलीगाओं, जिला बोंगाईगांव, असम 783383	असम राज्य के अंदर तथा आसपास इंडियन ऑयल कॉर्पोरेशन लिमिटेड के प्रशासनिक नियंत्रण वाले सार्वजनिक परिसर

[फा. सं. आर-25015/1/2007-ओआर-I]

पवन कुमार, अवर सचिव

New Delhi, the 13th September, 2017

S.O. 2176.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of Petroleum & Natural Gas No. R-25015/1/2007/OR.I dated Twenty Fifth May, 2017, the Central Government hereby appoints the officers mentioned in column (2) of the table below, being officer of equivalent rank of Gazetted Officers of the Government, to be Estate Officers for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on Estate Officers by or under the said Act within the local limits of their respective jurisdiction in respect of the public premises specified in the corresponding entry in column (3) of the said table.

TABLE

Sl. No.	Name of the Unit/Office	Designation of the Officer	Categories of public premises and local limits of jurisdiction
1.	New Delhi	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Refineries HQ, Core-2, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003	Public premises under the administrative control of Indian Oil Corporation Ltd. within the Union Territory of Delhi and New Okhla Industrial Development Authority (NOIDA) of the State of Uttar Pradesh.
2.	Guwahati Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Guwahati Refinery, P.O. Noonmati, Guwahati – 781 020	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Assam .
3.	Barauni Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Barauni Refinery, P.O. Barauni Refinery, Distt. Begusarai, Bihar – 861114.	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Bihar .
4.	Gujarat Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Gujarat Refinery, P.O. Jawahar Nagar, Distt. Vadodara, Gujarat - 391320	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Gujarat .
5.	Haldia Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Haldia Refinery, Distt. Midnapur, West Bengal – 721 606	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of West Bengal .
6.	Mathura Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Mathura Refinery, P.O. Mathura Refinery, Mathura, Uttar Pradesh - 281005	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Uttar Pradesh except for the New Okhla Industrial Development Authority (NOIDA) area.
7.	Panipat Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Panipat Refinery, P.O. Panipat Refinery, Panipat, Haryana – 132 140.	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Haryana .
8.	Assam Oil Division	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Assam Oil Division, Digboi Refinery, Digboi – 786171	Public premises under the administrative control of Assam Oil Division of Indian Oil Corporation Limited within the State of Assam .
9.	Paradip Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd.,	Public premises under the administrative control of Indian Oil Corporation Ltd.

	Project	Paradip Refinery, P.O.: Jhimani, Via-Kujang, Distt. Jagatsinghpur, Odisha – 754 141.	within the State of Odisha .
10.	Bongaigaon Refinery	Dy. General Manager (Administration & Welfare) / Dy. General Manager (Human Resource), Indian Oil Corporation Ltd., Bongaigaon Refinery, PO:Dhaligaon, Distt Bongaigaon 783385 (Assam) India	Public premises under the administrative control of Indian Oil Corporation Ltd. within the State of Assam .

[F. No. R-25015/1/2007-OR.I.]

PAWAN KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 6 सितम्बर, 2017

का. आ. 2177.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स मैसूर मिनरल्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 07/2008, 34/2008, 46/2007, 163/2007, 161/2007, 73/2007, 110/2007, 72/2007, 75/2007, 120/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/09/2017 को प्राप्त हुआ था।

[सं. एल-29012/80/2007-आईआर(एम),

सं. एल -29012/34/2008- आईआर(एम),

सं. एल -29012/58/2006- आईआर(एम),

सं. एल -29012/54/2007- आईआर(एम),

सं. एल -29012/52/2007- आईआर(एम),

सं. एल -29012/9/2007- आईआर(एम),

सं. एल -29012/11/2007- आईआर(एम),

सं. एल -29012/8/2007- आईआर(एम),

सं. एल -29012/12/2007- आईआर(एम),

सं. एल -29012/59/2006- आईआर(एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 6th September, 2017

S.O. 2177.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 07/2008, 34/2008, 46/2007, 163/2007, 161/2007, 73/2007, 110/2007, 72/2007, 75/2007, 120/2007) of the Central Government Industrial Tribunal/ Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Mysore Minerals Limited and their workmen, which was received by the Central Government on 06/09/2017.

[No. L-29012/80/2007-IR(M),
No. L-29012/34/2008-IR(M),
No. L-29012/58/2006-IR(M),
No. L-29012/54/2007-IR(M),
No. L-29012/52/2007-IR(M),
No. L-29012/9/2007-IR(M),
No. L-29012/11/2007-IR(M),
No. L-29012/8/2007-IR(M),
No. L-29012/12/2007-IR(M),
No. L-29012/59/2006-IR(M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

DATED : 29th AUGUST 2017

PRESENT : Shri V S RAVI, Presiding Officer

COMMON AWARD

(i) C R No. 07/2008

I Party

Smt. R. Mayamma
W/o C Range Gowda, MML Worker,
Chevenahalli Village, Nagar Navile Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/80/2007-IR(M) dated 06.02.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Smt. R. Mayamma by the management of Mysore Minerals Limited w.e.f. 02.06.1998 is justified? If not, to what relief the workman is entitled to?”

(ii) C R No. 34/2008

I Party

Smt. M. Savitramma,
W/o Late Masthi Gowda,
Honnamaranahalli Village, Jamboor Post,
Nuggehalli Hobli, Channarayapatna Taluk
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore.- 560001

The Central Government vide Order No. L-29012/34/2008-IR(M) dated 02.04.2008 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2 (A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Smt. M. Savitramma by the management of Mysore Minerals Limited w.e.f. 29.05.1998 is justified? If not, to what relief the workman is entitled to?”

(iii) C R No. 46/2007

I Party

Sh. Giddiah,
S/o Late Sh. Nanjaiah,
Bandi Halli Village, Bagevelu Post,
Gandasi Hobli, Channarayapatna Taluk
Hassan District

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore.- 560001

The Central Government vide Order No. L-29012/58/2006-IR(M) dated 07.03.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Sri. Giddaiah w.e.f. 28.02.2001? If not, to what relief the workman is entitled to?”

(iv) C R No. 163/2007

I Party

Sh. D. Shivalingaiah,
S/o Late Dasappa,
Kanakatte Village, Post Hobli,
Arasikere Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/54/2007-IR(M) dated 17.12.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Sri. D. Shivalingaiah by the management of Mysore Minerals Limited w.e.f. 20.05.1998 is justified? If not, to what relief the workman is entitled to?”

(v) C R No. 161/2007

I Party

Sh. H. Thimmaiah,
S/o Late Hanumaiah,
Nandihalli Village, Bageshpura Post,
Gandasi Hobli, Arasikere Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/52/2007-IR(M) dated 17.12.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Sh. H. Thimmaiah by the management of Mysore Minerals Limited w.e.f. 25.07.1998 is justified? If not, to what relief the workman is entitled to?”

(vi) C R No. 73/2007

I Party

Sh. K. Mahadeva Shetty,
S/o Late Madashetty, MML Worker,

II Party

The Managing Director,
Mysore Minerals Limited,

Kelamballi Village & Post,
Kasaba Hobli, Chamarajanagar Taluk,
Hassan District.

No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/9/2007-IR(M) dated 16.05.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of M/s. Mysore Minerals Ltd. in imposing the punishment of forceful retirement from the services by way of order of discharge dated 01.06.1998 on Shri. K. Mahadeva Sheety, Ex-Mining Worker, Kare Mines (Nanjangoodu Taluk, Mysore District) of M/s. Mysore Minerals Ltd. is legal and justified? If not, to what relief the workman is entitled and from which date?”

(vii) C R No. 110/2007

I Party

Smt. Nanjamma,
W/o Late Boregowda, MML Worker,
Karekere Village, Hattihalli Post,
Nuggehalli Hobli Channarayapatna Taluk,
Hassan District

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No. L-29012/11/2007-IR(M) dated 22.08.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the termination of Smt. Nanjamma by the management of Mysore Minerals Limited w.e.f. 16.04.1998 is justified? If not, to what relief the workman is entitled to?”

(viii) C R No. 72/2007

I Party

Smt. J. Rangamma,
W/o Javare Gowda,
K.B. Byrapura Village, Kembalu Post,
Bagur Hobli, Channarayapatna Taluk
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/8/2007-IR(M) dated 16.05.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt. J. Rangamma w.e.f. 28.01.1998? If not, to what relief the workman is entitled to?”

(ix) C R No. 75/2007

I Party

Smt. K Parvathamma,
W/o Late Vishnushetty,
Kalkere Village, Hattihalli Post,
Nuggehalli Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/12/2007-IR(M) dated 16.05.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the management of Mysore Minerals Limited is justified in terminating the services/premature superannuating of the services of Smt.K. Parvathamma w.e.f. 16.04.1998? If not, to what relief the workman is entitled to?”

(x) C R No. 120/2007**I Party**

Sh. Puttegowda,
S/o Late Sh. Kalase Gowda, MM L Worker,
Bidare Village, Kembalu Post,
Bagur Hobli, Channarayapatna Taluk,
Hassan District.

II Party

The Managing Director,
Mysore Minerals Limited,
No. 39, M G Road,
Bangalore.- 560001

The Central Government vide Order No.L-29012/59/2006-IR(M) dated 23.02.2007 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute act, 1947 has made this reference for adjudication with following Schedule :

SCHEDULE

“Whether the action of the management of Mysore Minerals Limited in terminating the services / superannuating the services of Shri. Puttegoda w.e.f. 29.06.1998 is just and legal? If not, to what relief the workman is entitled?”

Appearance

I party : M/s. K.T. Govinde Gowda & Sh. C.G. Dileep Gowda, Advocates
II party : Mr. T.K. Vedamurthy & Mr. L. Venkatarama Reddy, Advocates

1. Brief details mentioned in the claim statement by I Party are as follows:-

(i) In CR No. 07/2008, the I Party submits that on 20.11.1980, she has joined the service of the II Party management at its Mining Unit viz., Thagadur Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished her age as 38 years i.e., her date of birth being 02.11.1942. Further, the II Party, Thagadur Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 02.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), and the Central Government have referred the Reference in CR No.07/2008.

(ii) In CR No. 34/2008, the I Party submits that on 10.06.1979, she has joined the service of the II Party management at its Mining Unit viz., Thagadur Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under Token No. 650. At the time of joining the I Party has furnished her age as 32 years i.e., her date of birth being 10.06.1947. Further, the II Party, Thagadur Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 29.05.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 34/2008.

(iii) In CR No. 46/2007, the I Party submits that on 01.07.1986, he has joined the service of the II Party management at its Mining Unit viz., Haladahalli Chromite Mines, Arasikere Taluk, Hassan District, as a Mining Worker. At the time of joining the I Party has furnished his age as 30 years i.e., his date of birth being 01.07.1956. Further, the II Party, Haladahalli Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f 28.02.2001. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 46/2007.

(iv) In CR No. 163/2007, the I Party submits that on 11.05.1982, he has joined the service of the II Party management at its Mining Unit viz., Bhaktarahalli Chromite Mines and later on transferred to Doomgere Mines, Arasikere Taluk, Hassan District, as a Mining Worker. At the time of joining the I Party has furnished his age as 23 years i.e., his date of birth being 11.05.1959. Further, the II Party, Doomgere Mines Officials, orally refused to allow the I Party to do his work w.e.f 20.05.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 163/2007.

(v) In CR No. 161/2007, the I Party submits that on 13.10.1983, he has joined the service of the II Party management at its Mining Unit viz., Nandihalli Mines, Arasikere Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished his age as 30 years i.e., his date of birth being 13.10.1957. Further, the II Party, Nandihalli Mines Officials, orally refused to allow the I Party to do his work w.e.f. 25.07.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 161/2007.

(vi) In CR No. 73/2007, the I Party submits that on 15.11.1985, he has joined the service of the II Party management at its Mining Unit viz., Chamarajanagar Granite quarry and later on transferred to Kare Mines, Nanjanagoodu Taluk, Mysore District, as a Mining worker. At the time of joining the I Party has furnished his age as 28 years i.e., his date of birth being 01.04.1957. Further, the II Party, Kare Mines Officials, orally refused to allow the I Party to do his work w.e.f. 01.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 73/2007.

(vii) In CR No. 110/2007, the I Party submits that on 01.05.1979, she has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished her age as 31 years i.e., her date of birth being 01.05.1948. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 16.04.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 110/2007.

(viii) In CR No. 72/2007, the I Party submits that on 02.11.1980, she has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under Token No. 758. At the time of joining the I Party has furnished her age as 28 years i.e., her date of birth being 04.08.1952. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f 28.01.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 72/2007.

(ix) In CR No. 75/2007, the I Party submits that on 01.09.1982, she has joined the service of the II Party management at its Mining Unit viz., Jamboor Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker under Token No. 185. At the time of joining the I Party has furnished her age as 35 years i.e., her date of birth being 01.09.1947. Further, the II Party, Jamboor Chromite Mines Officials, orally refused to allow the I Party to do her work w.e.f. 16.04.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 75/2007.

(x) In CR No. 120/2007, the I Party submits that on 04.08.1981, he has joined the service of the II Party management at its Mining Unit viz., Byrapura Chromite Mines, Channarayapatna Taluk, Hassan District, as a Mining worker. At the time of joining the I Party has furnished his age as 35 years i.e., his date of birth being 04.08.1946. Further, the II Party, Byrapura Chromite Mines Officials, orally refused to allow the I Party to do his work w.e.f. 29.06.1998. The I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the Central Government have referred the Reference in CR No. 120/2007.

2. Brief Common details mentioned on behalf of I Party are as follows:—

The date of birth of the I Party, in fact, has been entered in all the statutory records like EPF, B-register and Service records, etc. The I Party is entitled to continue in the service with the II Party up to the reaching of the age of superannuation i.e., 58 years in the II Party Organization. The II Party by way of an eye wash conducted the so called illegal Medical Examination for the purpose of removing the I Party from the service before reaching the age of superannuation. Further, the II Party has terminated the I Party on the plea that the I Party has reached the superannuation age of 58 years as per the so called illegal Medical Examination. After illegal termination, the I Party has faced unemployment problem and financial hardship, not only by I Party but also the family members of I Party. The entire family has depended only upon the earnings of the I Party in the II Party Organization. The II Party/Management similarly, has, prematurely, retired the co-workers of the I Party on the ground of Medical unfitness and also as per the age certificate, issued by the Medical Officer. The said some of the co-workers have challenged their pre-matured retirement and the age certification, before the Hon'ble High Court of Karnataka, viz.,

(i) Writ Petition No. 5615/2001 between Smt. K. Dundamma Vs MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management, reinstated the above mentioned pre-matured retired employee with payment of back wages, and with continuity of service thereon.

(ii) Writ Petition No. 26101/2001, C/W W.P. Nos.23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same have been allowed on 01.06.2006.

On account of the illegal payment and other lapses, in the Management of II Party, it has to face administrative problems. The II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to the so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Examination, i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995. Hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The I Party has repeatedly requested the officials of the II Party to provide the work to I Party till reaching the age of superannuation i.e., 58 years. But all the efforts made by I Party to persuade the II Party to take the I Party, on duty, proved in vain because of hostile and vindictive attitude on the part of the II Party. The II Party has no right to refuse the employment to the I Party or to remove the I Party name from the muster rolls in unilateral manner, without following the due process of Law. The II Party used the above illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers. The II Party unilaterally refused employment to the I

Party before the age of superannuation even though the I Party is hale and healthy and entitled to work up to the reaching of the age of superannuation i.e., 58 years. The II Party has not followed the Mandatory provision of Section 25 F, G, H & N of the Industrial Dispute Act, 1947 and Rules 78 and 79 thereon, and the action of the Management is, therefore, void-ab-initio as laid by the Hon'ble Supreme Court of India in the case Sundaramani Vs State Bank of India, Santhosh Gupta Vs State Bank of Patiala, Rober D'Souza Vs Southern Railway, K.S.R.T.C. Bangalore Vs Boraiaha and others and also the same is violative of the Provisions of Industrial Dispute Act, 1947. The II Party has un-necessarily created hardship to the I Party by not providing employment. The II Party Management is not justified in retrenching the services of the I Party in the summary manner without following the principals of Natural justice and fair play. Further, apart from the violation of various provisions of the I.D. Act as stated above, the II Party violated its own Certified Standing Orders. The II Party acted contrary to its own Certified Standing Orders/Service Rules for effecting the prematured, superannuation by way of illegal termination. The I Party submits that, the II Party failed to issue 3 months prior notice or tendered payment of 3 months salary to the I Party before termination of service of the I Party under Rule 24. The I Party belongs to socially and economically weaker section and also, the I Party is the Rural based worker and used to work in Mines, which is in a remote place of the village and the I Party is also an illiterate worker belonging to Economically weaker section & not a matching party to fight against the II Party for the injustice done by the II Party. The I Party is facing financial hardship and mental agony due to stoppage of his/her monthly earnings in the II Party organization and also, due to illegal termination. Also, the I Party is not able to maintain himself and the family with day to day, food and basic needs. The I Party has faced the financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right the I Party's grievances. The Officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic weakness and social weakness. Ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli. The I Party is entitled for back wages, continuity of service and other consequential benefits from the date of refusal of employment. The II Party has violated the Provisions of I.D. Act as well as its own Certified Standing Orders/Service Rules as stated above. Under the I.D. Act there is no limitation prescribed for raising the dispute and the Article 137 of Schedule to the limitation Act is not applicable to proceedings under I.D. Act. This point is repeatedly decided by the Hon'ble Supreme Court of India and Hon'ble High Courts of various states namely,

- (i). LLJ-II-2001-pg788-792 [SC], Sapan kumar Pandit Vs U.P. State Electricity Board and others.
- (ii) LLJ-I-1999-pg 1260-1265 [SC], Ajaib Singh Vs Sirhind Co-operative Marketing-cum-processing Service Society.
- (iii) LLJ-II-1999-pg-482-483[SC], Mahavir Singh Vs U.P. State Electricity Board and others.
- (iv) LLJ-I-2003-pg 412-414 [MP], Ramadhar Tiwari Vs Union of India and others.
- (v) LLJ-I-1994-pg 468-471 [All], U.P. State Spinning Mills Co. Vs State of U.P & Others
- (vi) LLJ-II-2003-pg 1143-1145[Ori], Management of Aska Co-operative Central Bank Ltd. Vs State of Orissa
- (vii) LLJ-I-2002-pg-204-206 [Mad], E.E. Construction Division 2, Mannarpuram, Trichy and Another Vs . M.Gajapathy and Another
- (viii) LLJ-I-2002-pg-1079-1081[Del], Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and Another
- (ix) LLJ-I-2002-pg-1129-1132[Bom], Haribhau S/o. Gaman Waghchaure Vs State of Maharastra and Another.

Therefore, the I Party prays this Court to pass an award by holding that the action of the II Party Management is not justified in terminating the services of I Party, namely, prematured superannuation of the services of the I Party and also to direct the II Party to reinstate the I Party, with continuity of service, with payment of Full back wages and other consequential benefits from the date of termination till providing employment/reaching the age of superannuation as per the date of birth details registered in the Statutory records like B-register and EPF records and Service records maintained by the II Party and EPF Authorities and to pay the interest at the rate of 18% from the said due date and also up to the date of payment and further award of cost of the present proceedings, in the interest of justice and also, equity.

3. Brief Common submissions made on behalf of II Party in the counter statement are as follows:-

The II Party states that, the dispute raised by the I Party is time barred and belated, and filed after the lapse of time. Further, the I Party has waited for the result in the case filed by the co-workers, who approached Hon'ble High Court of Karnataka. The success of co-worker of I Party in W.P. No. 5615/2001 and 26101/2001 before Hon'ble High Court of Karnataka inspired the I Party to file this dispute after the lapse of time. Hence, the conduct of the I Party does not deserve any relief at the hands of this Tribunal. Further, the II Party states that, the dispute raised by the I Party is liable to be dismissed on the ground of delay and laches, since the claim made by the I Party is stale and time barred. The II Party has conducted the Medical Examination and the said expert team have examined the I Party and found that, the I Party is not capable to work in a mine, in view of the fact that, the I Party has already reached the age of more than 58 years as on the date of Medical Examination. Further, as per the decision of Management, I Party has been terminated and also given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I

Party is aggrieved by the said Medical Report. The I Party, who has amicably received the terminal benefits from the II Party, has no right to raise present dispute, after the lapse of time, at the instigation, for the wrongful gain. It is relevant to submit that, the dispute referred by Government of India is itself not maintainable in law. Hence, there is no Industrial Dispute existed or is apprehended. The Medical Examination has been conducted in Scientific Manner on thorough investigation. The I Party is not entitled for any benefits as per law. The I Party is happily working elsewhere since from the date of termination. Further, the statement of the I Party that, the II Party officials failed to consider the reasonable request of the I Party is totally incorrect and false. In fact, the I Party is employed elsewhere and earning salary. The I Party has filed this dispute only for wrongful gain, at the instigation of well-wishers, as admitted by the I Party in the claim statement. The II Party has not acted illegally or arbitrarily. Therefore, the II Party prays to dismiss the dispute filed by the I Party with exemplary costs, in the interest of justice and equity.

4. Already this Court has passed common award dated 27.08.2014. Thereafter, in Writ Petition the Hon'ble Karnataka High Court, has passed the following Order:- "The matter is remanded to the Central Government Industrial Tribunal Cum- Labour Court for fresh adjudication of the dispute. The Tribunal shall decide the dispute after giving notice to all the parties and pass an award in accordance with law. All the contentions of both the parties are left open." Further, notices have been sent for both sides and additional evidence recorded and arguments heard and after the careful perusal and appreciation of material records in the proper perspective the present Common Award is passed.

5. The crucial points/issues that arise for consideration in the present matter are as follows:-

- (i) Whether the present claim has to be rejected on the ground of delay and laches as submitted by the II Party?
- (ii) Whether the I Party has to prefer an appeal as against the medical certificate issued by the medical officer as submitted by the II Party in the counter statement?
- (iii) Whether after the receipt of the terminal benefits, the I Party cannot raise any dispute in the present case?
- (iv) Whether the I Party is entitled to get the relief as claimed in the claim statement, after the careful appreciation of the evidences adduced and documents produced by both the parties, in proper perspective?

6. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 1:-

The I Party has clearly stated in the claim statement itself, and also in the deposition that, I Party belongs to socially and economically weaker section, and the I Party is the rural based worker, and used to work in mines which is in a remote place of a village and I Party is also an illiterate worker, belonging to economically weaker section, and not a fit person, to fight against the II Party and the I Party has repeatedly requested the officials of II Party mines for permitting the I Party to work and also, due to I Party's acute poverty, I Party has faced huge financial hardship to reach the Labour Department like Assistant Labour Commissioner and Conciliation Officer (C), Hubli from I Party's place, for raising the dispute and also, to set right I Party's grievances and in such circumstances, only the delay has happened for raising the dispute and the delay caused is not intentional and deliberate one, but only due to the above mentioned various reasons. The II Party has not specifically denied the above mentioned statements made by the I Party in the claim statement. Further, the I Party has also stated that, the officials of the II Party/Management have taken undue advantage of I Party's poverty, illiteracy, economic and social weakness by way of refusing employment, and also, after knowing fully, that the I Party is most incapable in approaching the Labour Authority for redressal of the I Party's grievances. The said details is also not specifically disputed by the II Party. Further, I Party has clearly stated in the claim statement that ultimately with great hardship, mental agony and with the help of well wishers, the I Party has raised the I.D before the Assistant Labour Commissioner and Conciliation Officer (C), Hubli and the present central reference has been made to this Court by the Government of India, as per the above mentioned details. The said submissions made on behalf of I Party are also not specifically disputed on behalf of the II Party. On the other hand, the Assistant Manager of II Party, namely MW-1, has categorically admitted in his evidence that, I Party is an illiterate person. Further, the I Party has filed copies of Order passed in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, as exhibits marked herein below and also MW-1 has admitted in his evidence that the success of the said co-workers in the said Writ Petition and Writ Appeal has inspired the I Party to file the present reference. In the above mentioned facts and circumstances, it is seen that, the I Party is justified in claiming the legal and statutory rights and benefits, due to the unlawful and illegal ways and means followed by the II Party to terminate the service of I Party, without following the principles of natural justice.

7. Further, the I Party has pointed out, in the claim statement, itself that, there is no limitation prescribed for raising the dispute and Article 137 Schedule of the Industrial Dispute Act is not applicable to the present case. Further, the Hon'ble Supreme Court of India, dated 03.12.2010, Mr. Hon'ble Justice. P. Sathasivam and Mr. Hon'ble Justice B.S. Chauhan, in Civil Appeal No. 10231/2010, between Kuldeep Singh Vs G.M. Instrument Design Development and Facilities Centre and Another, it is clearly held as follows:- "The Labour Court dismissed the claim of the appellant on ground of delay (of five and half years) in raising the dispute. The High Court confirmed the Labour Court's award. Hence this present appeal. The impugned award was set aside with costs of Rs. 50,000 to be paid by respondent-management to appellant." The Hon'ble Supreme Court observed that, there is no time limit prescribed for reference

under section 10 of the Industrial Dispute Act, 1947. In the present case also, on a careful perusal of above said peculiar facts and vital circumstances and also due to the fact that, the I Party is facing poverty, illiteracy, economic and social weakness and also in the light of the above mentioned various citations, mentioned in the claim statement, it is seen that, the II Party is not justified in raising the objection to the effect that present reference is not maintainable due to the delay and latches. The I Party in the claim statement as well as in the evidence has pointed out that, the I Party is an illiterate and the I Party has repeatedly requested the II Party officials to provide employment in the II Party Organisation. Further, the MW-1, namely the Assistant Manager of the II Party has also admitted that I Party is an illiterate person and it is true to suggest that in the mines there is no shelter from sun and rain and it is true to suggest that there is no health unit and it is true to suggest that, the working conditions as per the mining act have not been provided at the mines. In such circumstances, it is crystal clear that, II Party has not provided the basic and statutory and also necessary facilities, for the proper working conditions and also, for the welfare of the I Party workers.

8. Further, Industrial Dispute Act is a social legislation brought into existence after various Industrial Revolutions, stage by stage and the said act has been enacted to provide minimum and basic facilities for workman and protect his/her employment. Further, II Party cannot take the super technical submission of delay and latches as a protective shield to cover up their lapses and violation of laws. Further, it is the well settled law that, I Party can initiate proceedings for the alleged illegal termination of services of workman en-mass by the II Party. Further, for the effective implementation of the Labour enactment and protecting the interest of workman only the Government have created a Labour Department. Further, it is very pertinent to point out that, the present reference is made by the Government of India, Ministry of Labour with the above mentioned schedule. Hence, this Court is bound to pass appropriate award in accordance with law based upon the facts and circumstances of the present matter. The II Party/Management cannot take super technical and hyper technical measures, so as to avoid payment of the legitimate amounts, payable to the I Party/Workman. Further, it is clearly held in the judgment reported in 1995-II-LLJ 835, between H.S. Vasantsenaiah Vs The Divisional Controller, K.S.R.T.C & Anothers, as follows:- “Delay in approaching the Labour Court- No ground to deny back wages and other consequential benefits.”

9. Further, it is held in the judgment reported in 1999-LLJ-II-pg 482-483 [SC], between Mahavir Singh Vs U.P. State Electricity Board and others, as follows:-“Delay in raising dispute – Labour Court finding termination of workman’s service illegal-reference could not be rejected.” Also in the judgment reported in 2003-LLJ-I-pg 412-414 [MP], between Ramadhar Tiwari Vs Union of India and others, it is clearly held as follows:- “No limitation laid down for raising dispute under statute - dispute raised after about 5 years - not one which could be refused on ground of delay.” Again, in the judgment reported in 1994-LLJ-I-pg 468-471 [All], between U.P. State Spinning Mills Co. Vs State of U.P and others, it is specifically held as follows:- “Lapse of 11 years between raising a dispute and making reference does not lose the character of industrial dispute.” Further, in the judgment reported in 2002-LLJ-I-pg 1079-1081 [Del], between Mangal Singh Vs Presiding Officer, Industrial Tribunal No.1, Delhi and another, it is clearly held as follows:- “Relief under Industrial Dispute Act, 1947 not to be denied to workman merely on ground of delay.” Also, in the judgment reported in 2002-LLJ-I-pg 1129-1132 [Bom], between Haribhau S/o. Gaman Waghchaure Vs State of Maharashtra and another, it is clearly held as follows:- “Limitation Act does not apply to proceedings under Industrial Dispute Act, 1947- If plea of delay be raised, employer to show real prejudice caused by delay and not rely on it as mere hypothetical defense.” In the present case also, considering the above mentioned socio-economic conditions, poverty and illiteracy, of the I Party, it is found that, the appropriate relief, in accordance with law has to be granted to the workman and the same cannot be denied, as per the mere hypothetical defence taken by the II Party regarding the delay and in fact, the II Party has not established the real prejudice caused by the said delay.

10. Further, in the judgment in the case of Basti Sugar Mills Co. Ltd. Vs State of U.P., (1979) 2 SCC 88, by V. Kishna Iyer, J. it is pointed out as follows:- “Industrial Jurisprudence does not brook nice nuances and tortuous technicalities to stand in the way of just solutions reached in a rough and ready manner. Grim and grimy life-situations have no time for the finer manners of elegant jurisprudence.” Thus, the process of industrial adjudication is an onerous task being guided by the constitutional mandates and aiming at settlement of the industrial dispute on a fair and just basis, tested on the touchstone of social and economic justice. When an industrial dispute is raised, it is a commotion to be pacified by dispensing justice. In such adjudication, not just the right to equality and other Constitutional guarantees, but the aims and ideals of the Constitution enter into the consideration. It is the duty of the Courts to apply directive principles in interpreting the Constitution and the laws. Also, it is reported in Lloyds Bank Ltd Vs. Bundy, (1974) 3 All ER 757 that Lord Denning first clearly enunciated his theory of “inequality of bargaining power”. He began his discussion on this part of the case by stating (at page 763): “There are cases in our books in which the courts will set aside a contract, or a transfer of property, when the parties have not met on equal terms, when the one is so strong in bargaining power and the other so weak that, as a matter of common fairness, it is not right that the strong should be allowed to push the weak to the wall.” In the present case also, it is seen that, the II Party has clearly admitted in the counter statement that, the success of the co-workers of I Party in W.P. No. 5615/2001 dated 29.03.2001, W.A. No. 3460/01 c/w W.A. No. 3459/01 dated 12.06.2002 and W.P. No. 26101/01 c/w W.P. Nos. 23798/01, 23797/01 & 23794/01 dated 01.06.2006, has inspired the I Party to file the present reference and in fact, the I Party has specifically pointed out in the claim statement and evidence that, the I Party is an illiterate person and the I Party is facing poverty, economic and social weakness and the I Party has repeatedly requested the II Party officials to

provide employment to the I Party and Assistant Manager of II Party MW-1 has also admitted in his evidence that, I Party is an illiterate person and also the II Party has not established the real prejudice caused to the II Party, by the said delay.

11. Further, the Hon'ble High Court of Karnataka, in W.P. No. 9974/2006 (L-TER) dated 07.01.2015, (Before Mr. Hon'ble Chief Justice D.H. Waghela and Mr. Hon'ble Justice Budihal, R. B), in the case of The Management of National Aerospace Laboratories Vs Engineering & General Workers Union and the Managing Directors, it is particularly held as follows:- "The jurisdiction of an Industrial Tribunal, therefore, is expansive and creative and not restricted to only enforcing or interpreting the contract of service or the extant legal provisions and it is not-fettered by the limitations of contracts and can even involve extension of existing agreement of the making of a new one, or in general, creation of new obligations or modification of old ones." In the present case also, for the above mentioned facts and circumstances it is found that, I Party is entitled to get appropriate relief, in accordance with law, and the II Party is not justified in raising the objection on the ground of delay and latches, as per the said jurisdiction of the present Court. Thus, the point is answered in favour of the I Party.

12. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 2:-

The MW-1 the Assistant Manager of II Party, who has given evidence on behalf of II Party has admitted that, it is true to suggest that, there is no health unit and the working conditions as per the mining act have not been provided at the Mines. The said admission is also clinchingly established the various above mentioned allegation made as against the II Party. Further, MW-1 has admitted that, it is true to suggest that, as per the provisions of the mining act there should be a qualified doctor to attend the I Party workers at the mining site. If it is so, then there is no need for the II Party to get the doctor from Hatti Gold Mines and to subject the I Party to medical examination. On that ground only, I Party has clearly stated in the claim statement that, as per the illegal medical certificate, the social and economic weaker section person of the I Party has been refused to continue the work by the II Party.

13. Further, MW-1 namely, the Assistant Manager of II Party/Management has admitted that the II Party company has suffered loss of 21 crores due to mis-management and it is also true to suggest that, due to the said mis-management, the financial crisis has occurred and it is true to suggest, having suffered the said loss the management thought of reducing the number of workers and it is true to suggest that, the Management ordered for medical examination of all the mining workers. For the said reasons only, I Party has categorically stated in the claim statement that, II Party has suffered huge loss due to mis-management and in the way of reducing the number of workers they have conducted illegal medical examination and terminated several workers including I Party. Further, MW-1 admitted that, to examine the workers doctors, have come from Hatti Gold Mines Ltd. However, he has admitted, that he does not know the names and qualifications of those doctors.

14. Further, in the counter statement the II Party has stated that, the I Party has been given opportunity to prefer an appeal before Appellate Medical Board within 30 days, if the I Party is aggrieved by the Medical Report. However, the MW-1 has categorically admitted that, it is true to suggest that, they have not produced the Medical certificate issued by the Doctor who has examined the I Party health condition and it is also true to suggest that, the Medical Form 'O' is in English language. At the same time, the MW-1 has admitted that, I Party workers are illiterate workers. Hence, it is found that the said medical certificate has not been issued in the language known to the workers/I Party and also not understood by the I Party and in fact, the said medical certificate is also not submitted to this Court by the II Party. In such circumstances, it is too much on the part of II Party to content that I Party has got the appeal remedy as per the medical certificate and the workers have not availed the appeal remedy and hence they cannot file the present case before this Court. Further, MW-1 has admitted in his evidence that, the Doctors have not conducted the medical examination in his presence and he does not know in what respect the I Party has been found unfit to continue in service and he has to verify in the office whether copy of notice issued to I Party after medical examination or acknowledgement regarding service of notice on the I Party is available or not. So, the MW-1 has not produced the relevant records to establish that, after medical examination, proper record has been issued to I Party to appeal before 30 days. On the other hand, MW-1 has categorically admitted that, II Party has not produced the Medical certificate issued by the Doctor who has examined the I Party. Above all, MW-1 has admitted that, it is true to suggest that, I Party has not been issued with charge sheet and no enquiry has been conducted before the termination of his service. The said categorical admission of MW-1 shows that, II Party has not terminated the I Party as per the principles of natural justice.

15. Further, MW-1 has admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has admitted that, I Party has not been issued with charge sheet and also, enquiry has been conducted. Hence, it is crystal clear that, II Party has not terminated the I Party in accordance with law. Further, MW-1 has admitted that, termination order has not been attached with copy of Medical Certificate pertaining to I Party. Furthermore, MW-1 has admitted that, he does not know in what respect the Medical Officer opined that, the I Party is being medically unfit. Further, MW-1 has admitted that, it is true that, II Party has not taken any permission from Labour Ministry or Labour Secretary under the provisions of I.D. Act for terminating services of several employees on the basis of medical grounds. Further, MW-1 has specifically admitted in his evidence that, it is true to suggest that I Party is the illiterate person and it is true to suggest that company has not

furnished to the I Party the Kannada Version/translation of Medical Certificate which is in English and the company has enhanced the age of employees to 60 years w.e.f 17.07.2008. In the light of the above mentioned facts and circumstances it is found that, the II Party is not justified in submitting that, the I Party has to prefer only the appeal as against the medical certificate issued by the medical officer. Thus, the point/issue is answered as against the II Party.

16. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 3:- The I Party has stated in the claim statement that, he is entitled to work till attaining the age of superannuation and the I Party's actual date of birth is registered in EPF, B-register and Service records, etc and suddenly, the II Party has refused to provide employment to the I Party, as per the so-called illegal medical examination and the co-workers have challenged there pre-matured retirements and age certification before the Hon'ble High Court of Karnataka, viz.,

(i) Writ Petition No. 5615/2001 between Smt. K.Dundamma Vs. MML, and the same Management of II Party challenged the same in Writ Appeal No. 3460/2001 C/W W.No. 3459/2001. The said Appeal has been rejected on 12.06.2002 confirming the single Judge order dated 29.03.2001. In view of the said decision the Management reinstated the above mentioned pre-matured retired employee with payment of back wages, with continuity of service thereon.

(ii) Writ Petition No. 26101/2001, C/W W.P. Nos. 23798/2001, 23797/2001 & 23794/2001 filed by Sri V.C. Range Gowda and 8 others Vs MML, and the same has been allowed on 01.06.2006. The MW-1, the Assistant Manager of II Party has also admitted the said details, in his evidence. Further, the I Party has specifically pointed out that, on account of administrative problems faced by the II Party, the II Party adopted its own tactics, ways and means for terminating the Mining Workers in short cut methods and also, in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner, without disclosing the true fact, to the I Party and also without notifying the so-called Medical Report i.e., not by a Doctor of a Rank of Assistant Civil Surgeon as defined in Rule 29-C of the Mines Rules 1995 and hence, the so-called Medical Examination conducted by the II Party is illegal and irregular, and the same is not having any legal sanctity and not sustainable in law as it is violative of Rule 29-C. The MW-1, Assistant Manager of II Party has candidly admitted in his evidence that, due to mis-management, the II Party has suffered administrative problems, and hence, the II Party has decided to terminate the services of the I Party workers.

17. Further, it is specifically pointed out by the I Party that, II Party has no right to refuse the employment to the I Party without following the due process of Law and the II Party used the illegal, imaginary, hypothetical and unscientific Medical report as its tool for unilaterally deciding the age of I Party and other workers even though the correct age is mentioned in the EPF, B-register and Service records, and I Party is hale and healthy and entitled to work up to the age of superannuation. In the evidence also, I Party has stated the said details mentioned in the claim statement. Further, in the cross examination, I Party has clearly pointed out that, it is not true to suggest that, as per the request made by the union the II Party subjected the I Party to medical check up and found the I Party unfit to continue in service. In the additional evidence also, the I Party has pointed out that, it is not true to suggest that as on termination, all amounts due to I Party have been received and the I Party has filed the present case, without any justification. Further, the II Party has also not produced any relevant records, to establish that, the II Party has paid all the amounts due to I Party as on the date of termination. Further, it is observed in the judgment reported in 1984-I-LLJ 388(SC) as follows:- "Acceptance of retirement benefits – Acceptance of retirement benefits by the workmen concerned – Whether precluded from raising Industrial Disputes Challenging Orders of retirement. On the materials placed by the management, held, neither a case of acquiescence nor a case of waiver on the part of workmen was made out – Held, the workmen were entitled to wages for the period between the dates of retirement and the dates of their reaching the age of 58 years." Also, in the judgment reported in 1997-II-LLJ 228(SC) it is held as follows:- "There is no statutory estoppel in favour of the Officer." Further, it is the settled law that, there is no estoppel as against the statutory rights/benefits, which the I Party/workman is entitled to get under the provisions of the Industrial Disputes Act, 1947 and the II Party has also not established that, the action has been taken by the II Party as against the I Party, as per the principles of natural justice and also, as per the procedure and practice to be followed in accordance with law. In the light of the above mentioned reasons, facts and circumstances it is found that, the II Party is not justified in submitting that, after the receipt of the terminal benefits the I Party cannot raise any dispute in the present case and thus, the point/issue is answered as against the II Party.

18. Analysis, Discussion and Findings with regard to the above mentioned point/issue No. 4:-

The I Party has categorically stated that, due to mis-management the II Party has suffered a loss and hence, the II Party has found its own tactics, ways and means for terminating the mines workers in short cut methods and also in an illegal and irregular manner by adopting anti-labour and un-fair labour practice and victimized the I Party and other co-workers by removing them enmasse by resorting to so-called Medical Examination during the year 1998 in illegal and irregular manner. Further, MW-1 has admitted in his evidence that the II Party has entrusted the work to private party in spite of availability of technical persons and machinery in the year 1995-1996 and hence, the II Party company has suffered a loss of about Rs. 21 crores and it is also true to suggest that, due to said mis-management the financial crisis

occurred and also it is true to suggest that, having suffered the said loss the management thought of reducing the number of workers. Hence, it is clear that, the MW-1 of II Party has also admitted the said submissions made by the I Party in the claim statement. Further, MW-1 has admitted that, he cannot right now give the date, month and year of notice served to I Party and it is true to suggest that, I Party has not been issued with charged sheet and no enquiry has been conducted before the termination of the I Party. Further, MW-1, admitted that, it is true to suggest that as per the clause 18 and 24 any termination has to be followed by enquiry along with 3 months notice pay. However, MW-1 has clearly admitted that 3 months notice pay has not been paid to the I Party by the II Party.

19. Further, MW-1 has admitted in his evidence that, it is true to suggest that, there is Statutory Report, B Register and Provident Fund Register. Further, I Party has categorically stated that, the date of birth has been entered in the Statutory Report, B Register and Provident Fund Register and the II Party without any valid reasons pre-maturedly terminated the service of the I Party. Further, the date of birth of I Party mentioned in the claim statement is the same as mentioned in the employees register, which is marked as Ex M-1 and Ex M-2, except in the case of CR No. 07/2008, CR No. 34/2008 and CR No. 73/2007. Further, in the case of CR No. 07/2008, it is seen that, as per Employees Register, the date of birth of I Party is 02.05.1942, in the case of CR No. 34/2008 the date of birth of I Party is 10.06.1946 and in the case of CR No. 73/2007 the date of birth of I Party is 21.01.1957. Also, the Circular relating to enhancing the superannuation age from 58 years to 60 years to the workers of II Party, is applicable only to persons who are in employment as on 17.07.2008. Further, MW-1 has clearly admitted that, it is true to suggest that, as per Clause 18.3 of CDPR rules, the changes in the date of birth, as entered in the company record, can only effected on a judgment of a competent Court and except on a judgment of a Court, the date of birth once recorded, will not be changed at the request of the Officer/Employee under any circumstances. For that reason only, I Party has clearly stated that, the II Party has terminated the service of I Party pre-maturedly without any valid reasons. Further, the act of the II Party, certainly, is not proper and legal and as much as, no valid reasons have been furnished by the II Party for not producing the medical certificate issued to the I Party by the II Party and no valid reason has been furnished by the II Party as to what prevented the II Party in not following the principles of natural justice and also for not producing the material records, though they are very important records, to prove the aforesaid details mentioned in the counter statement filed on behalf of II Party. Further, on the careful perusal of material records mentioned in the Exhibits list, it is seen that, II Party has refused to provide work to the I Party without following the due process of law. Further, it is found that, there is discrimination and also violation of fundamental right caused to the I Party and it is not proper and also, not legal to give forceful retirement to I Party, by the II Party, without following the due process of law.

20. Further, it is seen that, the II Party has not terminated the service of the I Party as per the Principles of Preponderance of Probability. Further, no injustice can be caused by the II Party to the I Party and I Party cannot be victimized due to the actions of the II Party without any valid reasons. Further, it is relevant to mention that, the I Party/workman has been punished by II Party without adopting the procedure known under law. Further, the underlying aim and object of adjudication of an Industrial Dispute is, in effect, dispensation of social and economic justice and translating fundamental rights as well as directive principles into some tangible relief. The ultimate object is to see that industrial disputes are settled by industrial adjudication on principles of fair play and justice. Further, the awarding of reinstatement does not amount to automatic conferment of back wages as held in 2009 (4) LLJ 667 (SC) Malla C.N. Vs State of Jammu and Kashmir & others. Further, it is held by the Hon'ble Supreme Court, in the case of APSRTC Vs B.S. David Pal, reported in 2006 (2) SCC 282, that the entitlement of back wages is not automatic on reinstatement. Awarding of back wages, depend upon other factors and circumstances. The I Party has pointed out in the claim statement that the I Party has been thrown out of employment and is facing hardship. In the affidavit also, the I Party has stated that with no financial income the I Party is facing great hardship. However, the claim of the workman that, the I Party is entitled for the full back wages, cannot be considered, having regard to fact that the I Party has not performed any work for II Party from 1998 to the date of superannuation, for the several years, and also, in order to balance the interest of both the parties, by adopting the balancing test or balancing process in the proper manner, this Court is of the considered opinion that in the facts and situation of the present case, 50% back wages and other consequential benefits only can be granted to the I Party. In the claim statement, the I Party has claimed interest, however the I Party has not enlightened the fact that the I Party is entitled to get interest also as prayed for in the claim statement by adducing relevant evidence and appropriate records. Hence, it is found that, the I Party is not entitled to get interest amount for the above mentioned factual reasons and also legal grounds.

21. Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- “Back Wages – Entitlement for full back wages – Depends upon facts and circumstances of each case – Employee reinstated in service – Question of termination or reinstatement not in dispute – Employee only entitled to 50% back wages.” Also, in the judgment reported in AIR 2009 Supreme Court 240, in C.A. No. 5425/2008, dated 02.09.2008, (Before Mr. Justice Tarun Chatterjee and Mr. Justice Aftab Alam), in the case of M.P. Electricity Board & Ors Vs Maiku Prasad, it is held as follows:- “Industrial Dispute Act (14/1947), Sch. 2, Item 6 – Back wages – Curtailment – Respondents’ service terminated for unauthorised absence – Termination set aside by Labour Court – Direction for reinstatement and payment of full back wages passed – Considering long period between

termination and reinstatement for which respondent has not worked – Back wages reduced to 50%.” Further, in the judgment reported in 2010-I-LLJ-861(SC), in C.A. No. 2874/2009, dated 28.04.2009, (Before Mr. Justice Tarun Chatterjee and Mr. Justice H.L. Dattu), in the case of Malwa Vanaspati & Chemical Co. Ltd. Vs Rajendra, it is held as follows:- “Back Wages – Not to be granted mechanically, upon termination of service being held illegal- Service of workman terminated in 1987 – Labour Court gave its award in 2002 holding termination illegal – In circumstances of case, 50% back wages held proper and payment thereof accordingly directed.” In the present case also, it is found that, the I Party is entitled to get 50% of the amount, out of the total amount of the monetary benefits with continuity of service, and other consequential benefits that I Party would have received in the absence of the impugned punishment of refusal to provide employment, by the II Party.

22. Further, in the judgment reported in 2009-I-LLJ 1 [SC], between Senior Regional Manager, TASMAL Ltd., and another Vs. The M. Raviselvam, it is held as follows:- “Back wages-payment of back wages questioned- On reinstatement, full back wages is not to be paid automatically. It depends upon facts of each case. In the present case order for payment of back wages modified to the extent of 50% to be paid by the Management.” And in the judgment reported in 1999-LLJ-I-pg 1260-1265 [SC], between Ajaib Singh Vs Sirhind Co-operative Marketing-Cum-Processing Service Society, it is clearly held as follows:- “Delay in seeking relief by workman against Termination of Service- Article 137 of Schedule to Limitation Act not applicable to proceedings under I.D. Act – Workman entitled to 60% of back wages.” Further, in the judgment reported in 1990 [61] FLR 768, between Delhi Transport Corporation Vs D.T.C. Mazdoor Congress and others, it is held as follows:- “A confirmed and permanent employee-Terminated without one month’s notice or pay in lieu of and without holding enquiry and affording any opportunity-Termination was illegal-Principles of natural justice violated.” In the present case also, the II Party has terminated the I Party without following the Principles of natural justice and without holding enquiry and also without offering opportunity to the I Party to put forth his/her defence. Further, in the judgment reported in 2010-I-LLJ 682 [Bom], between Santhosh Kumar, S/o Babulal Gupta Vs Sub-Area Manager, Western Coal Fields Ltd., Maharastra and another, it is held as follows:- “Dismissal of workman from service – no enquiry held – termination order not served on workman – punishment held disproportionate – deprivation of 50% back wages with warning issued to workman held would be proper.” Further, the II Party has stated in the counter statement that, the I Party, on medical examination, has found to be unfit to work. However, in the same counter statement II Party has stated that, I Party is happily working elsewhere since the date of termination and the I Party is working elsewhere also earning salary. In such circumstances, it is seen that, the submissions made by the II Party in the counter statement are self contradictory. On that ground also II Party is not justified in terminating the services of I Party without following the principles of natural justice, fairness and reasonableness. Further, on the totality of the above mentioned facts and circumstances, and also, after taking into consideration the evidences and exhibits mentioned herein below, in the proper perspective, the following award is passed, in the best interest of justice, equity and fair play.

(i) **In C R 07/2008 R. Mayamma Vs. MML**

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/ R. Mayamma with effect from 02.06.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 02.06.1998 till the I Party attains the age of retirement i.e., 02.05.2000 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(ii) **In C R No. 34/2008 M. Savitramma Vs. MML**

AWARD

The II Party/Management is not justified in imposing the punishment of termination of I party/M. Savitramma with effect from 29.05.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 29.05.1998 till the I Party attains the age of retirement i.e., 10.06.2004 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iii) In C R No. 46/2007 Giddiah Vs. MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ Giddiah with effect from 28.02.2001 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.02.2001 till the I Party attains the age of retirement i.e, 01.07.2014 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(iv) In C R No. 163/2007 D. Shivalingaiah Vs. MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ D. Shivalingaiah with effect from 20.05.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 20.05.1998 till the I Party attains the age of retirement i.e, 11.05.2017 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(v) In C R No. 161/2007 H. Thimmaiah Vs. MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ H. Thimmaiah with effect from 25.07.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 25.07.1998 till the I Party attains the age of retirement i.e, 13.10.2015 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(vi) In C R No. 73/2007 K. Mahadeva Shetty Vs. MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ K. Mahadeva Shetty with effect from 01.06.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 01.06.1998 till the I Party attains the age of retirement i.e, 21.01.2015 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(vii) In C R No. 110/2007 Nanjamma Vs. MML**AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ Nanjamma with effect from 16.04.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 16.04.1998 till the I Party attains the age of retirement i.e, 01.05.2006 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(viii) **In C R No. 72/2007 J. Rangamma Vs. MML****AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ J. Rangamma with effect from 28.01.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 28.01.1998 till the I Party attains the age of retirement i.e, 04.08.2010 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(ix) **In C R No. 75/2007 K Parvathamma Vs. MML****AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ K Parvathamma with effect from 16.04.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 16.04.1998 till the I Party attains the age of retirement i.e, 01.09.2005 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(x) **In C R No. 120/2007 Puttegowda Vs. MML****AWARD**

The II Party/Management is not justified in imposing the punishment of termination of I party/ Puttegowda with effect from 29.06.1998 and II Party is directed to pay to the I Party 50% of the amount, out of the total amount of back wages and other consequential benefits, salary and allowances and all benefits due and payable to the I Party from the date of termination, namely, 29.06.1998 till the I Party attains the age of retirement i.e, 04.08.2004 to which the I Party would have been entitled in the absence of the impugned termination of service passed by II Party. In computing such benefits the I Party shall be deemed have been in continuous service of II Party, till the date the I Party attains the age of retirement and the present reference is answered, accordingly, without cost for the above mentioned peculiar facts and circumstances.

(Dictated, transcribed, corrected and signed by me on 29th August, 2017)

V. S. RAVI, Presiding Officer

(i) **In C R No. 07/2008 R. Mayamma Vs. MML****List of Witness on the side of I Party:**

WW 1	Smt. R. Mayamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-2	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-3	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(ii) In C R No. 34/2008 M. Savitramma Vs. MML**List of Witness on the side of I Party:**

WW 1	Smt. M. Savitramma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form
Ex W-2	06.06.1998	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-6	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	29.08.1992	Form 'O' Report of Medical Examination
Ex M-2	-	Register of Employees

(iii) In C R No. 46/2007 Giddiah Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. Giddiah, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form 'O'
Ex W-2	28.02.2001	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001
Ex W-6	22.08.2008	Circular relating to enhancing the superannuation age from 58 years to 60 years

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(iv) In C R No. 163/2007 D. Shivalingaiah Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. D. Shivalingaiah, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Duty Work allocation Reports
Ex W-2	29.05.1998	Letter from I Party to II Party
Ex W-3	27.07.2001	Workmen Compensation Award
Ex W-4	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-5	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-6	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(v) In C R No. 161/2007 H. Thimmaiah Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. H. Thimmaiah, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(vi) In C R No. 73/2007 K. Mahadeva Shetty Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. K. Mahadeva Shetty, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	14.06.2002	Employees Provident Fund Certificate
Ex W-2	10.06.1998	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(vii) In C R No. 110/2007 Nanjamma Vs. MML**List of Witness on the side of I Party:**

WW 1	Smt. Nanjamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	22.05.1998	Termination order issued to I Party
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(viii) In C R No. 72/2007 J. Rangamma Vs MML**List of Witness on the side of I Party:**

WW 1	Smt. J. Rangamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form
Ex W-2	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-3	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-4	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

(ix) In C R No. 75/2007 K Parvathamma Vs MML**List of Witness on the side of I Party:**

WW 1	Smt. K Parvathamma, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Medical Examination Report Form 'O'
Ex W-2	22.05.1998	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

(x) In C R No. 120/2007 Puttegowda Vs MML**List of Witness on the side of I Party:**

WW 1	Sh. Puttegowda, I Party/ workman and also, additional evidence
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List of Witness on the side of II Party:

MW 1	Sh. Somanna, Assistant Manager, II Party/ Management
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Exhibit marked on behalf of I Party:

Exhibits	Date	Description of Document
Ex W-1	-	Membership Application Form
Ex W-2	29.06.1998	Termination order issued to I Party
Ex W-3	29.03.2001	Order passed in W.P. No. 5615/2001
Ex W-4	12.06.2002	Order passed in W.A. No. 3460/2001 c/w 3459/2001
Ex W-5	01.06.2006	Order passed in W.P. No. 26101/2001 c/w 23798/2001, 23797/2001 & 23794/2001

Exhibit marked on behalf of II Party:

Exhibits	Date	Description of Document
Ex M-1	-	Register of Employees

नई दिल्ली, 6 सितम्बर, 2017

का. आ. 2178.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स बिहार राज्य मिनरल डेवलपमेंट कॉर्पोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, धनबाद के पंचाट (संदर्भ संख्या 194/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/09/2017 को प्राप्त हुआ था।

[सं. एल- 29012/33/1993-आईआर(एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 6th September, 2017

S.O. 2178.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 194/1994) of the Central Government Industrial Tribunal/Labour Court-1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bihar State Mineral Development Corporation and their workman, which was received by the Central Government on 01/09/2017.

[No. L-29012/33/1993-IR(M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act. 1947.

Reference: No. 194/1994

Employer in relation to the management of BSMDC,

AND

Their workmen

Present: Shri R.K.Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : None

State : Jharkhand

Industry- Mines

Dated: 16.8.2017

AWARD

By order No. L-29012/33/1993-IR(M) dated 29/07/1994, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub –section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Bihar State Mineral Development Corporation, Chandula, simalgoda Project, Bakudih in suspending mining operations from 12/01/1993 to 26/01/93 and withholding wages of Shri Badal Soren and 79 other workmen is justified ? If not, to what relief are the workmen entitled to?

Note :- List of workman is not enclosed alongwith order of reference

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 6 सितम्बर, 2017

का.आ. 2179.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मेसर्स भिलाई इस्पात संयंत्र के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 88/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/09/2017 को प्राप्त हुआ था।

[सं. एल-26012/4/2009-आईआर(एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 6th September, 2017

S.O. 2179.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 88/2009) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bhilai Steel Plant and their workman, which was received by the Central Government on 01/09/2017.

[No. L-26012/4/2009-IR(M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/88/2009

The President,
Metal Mines Workers Union,
Dallirajhara,
Durg (CG)

...Workman/Union

Versus

Assistant General Manager (P Mines & ES),
Bhilai Steel Plant,
Bhilai, Durg (CG)

...Management

AWARD

Passed on this 6th day of July, 2017

1. As per letter dated 22-10-2009 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L-26012/4/2009-IR(M). The dispute under reference relates to:

“Whether the management of Bhilai Steel Plant in their Rajhara Mines, Dallirajhara is justified in not changing the date of birth of Shri Bishal Singh P.No.857483 from 8-4-1950 to 4-4-1958 as demanded by President of Metal Mines Workers Union? To what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party President of Metal Mines workers Union submitted statement of claim on behalf of workman Bishal Singh. Case of Union is Bishal Singh is engaged in mine of 2nd party through contractor on 20-6-93. After departmentalization, respondent management posted workman at DPR vide order dated 12-10-96. Workman was working as Attendant at Dalli Manual Mines. Earlier contractor had orally engaged workman as labour on 20-6-93. The contractor had not called any documents about his educational qualifications. Workman was appointed as DPR unskilled on regular basis on 12-10-96 and his seniority had also been considered. At the time of absorbing workman as DPR, management did not call any documents relating to his qualification. Workman also not submitted any documents to the management. Appointment order was issued on 12-10-96. Then workman came to know that his date of birth was wrongly recorded 18-4-50 instead of 12-2-48. That he passed 5th standard examination in 1971, his date of birth was mentioned 14-2-58 in marksheet as well as transfer certificate.

3. It is submitted that workman had immediately approached management for correction of his date of birth in 1997. He submitted middle school transfer certificate along with his representation. Management had replied that on the basis of medical examination form filled by workman prior to departmentalization, his date of birth was mentioned 18-4-50. Said date of birth mentioned in Form B despite workman had not submitted any document to contractor. That workman had filled medical examination form. His signature was obtained on blank form. Workman was not aware on what basis contractor has mentioned his date of birth 18-4-1950. Workman submits that management did not give him opportunity of hearing or prove that his date of birth was 14-2-58. Management not corrected his date of birth workman was victimized without his fault. Procedure adopted by management amounts to victimization violating natural justice. On such ground, workman prays for correction of his date of birth.

4. 2nd party filed Written Statement opposing claim of workman. It is contented that as per terms of reference his date of birth is 14-4-1958. The statement of claim submitted by Ist party is not as per terms of reference. In statement of claim and documents produced by workman, the date of birth is shown 14-2-58. Workman further submits that workman was engaged as contractual labour on 20-6-93 prior to departmentalization on 31-5-96. Workman declared his date of birth to 18-4-50. In all the documents Form B Register, service book- same date of birth was recorded. Workman had obtained driving licence on 16-2-72 assuming he was of 18 years at the time of getting driving licence. Age of workman would be only 14 years. It is reiterated as per his date of birth, notice of superannuation was received on 6-11-09 and workman superannuated on 6-1-10. That Assistant General Manager (P-Mines and ES) impleaded as party to the reference. No such post is existing. However Written statement is submitted on behalf of Bhilai Steel Plant. It is reiterated that Bishal Singh was contractual labour, he was departmentalized as DPR on 12-10-96. Workman himself has declared his date of birth 4-2-58 at the time of departmentalization. 2nd party submits that it is responsibility of workman to prove that date of birth at time of appointment as contract labour and departmentalization. 2nd party prays claim of workman be rejected.

5. Workman filed rejoinder reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the management of Bhilai Steel Plant in their Rajhara Mines, Dallirajhara is justified in not changing the date of birth of Shri Bishal Singh P.No.857483 from 18-4-1950 to 14-4-1958 as demanded by President of Metal Mines Workers Union?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. The term of reference pertains to legality of not correct date of birth of Bishal Singh. Claim of workman is denied. Workman filed affidavit of his evidence supporting his contentions in statement of claim. That he was working as contract labour from 20-6-92. On 2-0-96, he was departmentalized on the post of unskilled attendant. When appointment order was issued, he noticed that date of birth was recorded 18-4-50 instead of 14-2-58. He had passed 5th standard in 1971, in marksheet, date of birth was recorded 14-2-58. He submitted correction of his date of birth in 1997. Contractor or management had not asked documents about date of birth. On his request, his date of birth was not corrected. Service book was prepared on 22-6-99. Prior to it, he submitted application for retirement. Illegally, he is superannuated on 30-6-2010. In his cross examination, workman admits before departmentalization in Bhilai Steel Plant, he was working under contractor, his Form B was not prepared. His signature was obtained on plain paper. He

says that he doesnot know what is written in his affidavit. After appointment in Bhilai Steel Plant, he had filled PF Form. That form for medical examination Exhibit M-5 bears his signature. He was holding driving licence Exhibit M-6. He also admits his signature on M-7. He denies that his date of birth is of 1950. Workman was re-examined and documents W-2 to 4 were admitted in evidence. In his cross examination, workman says he was working under contractor before his appointment in Bhilai Steel Plant in 1996. During 1993 to 1996, he was working under contractor. He was departmentalized as per agreement between Union and management. Exhibit W-3,4 were received by him from School in 1971. He not produced those documents with contractor or management of Bhilai Steel Plant. After his departmentalization in Bhilai Steel Plant, his Form B was prepared.

8. Management's witness Mahadev filed affidavit of evidence supporting whole contentions in Written statement filed by management. That the date of birth of workman 18-4-50 was declared by workman himself. Workman had obtained licence on 16-2-72. His age was only 14 years. Documents Exhibit M-1 to M-11 are admitted from evidence of management's witness. In his cross, witness says he was appointed by management. His date of birth was recorded by management in Form B. that Form B remains in custody of Mines Manager. Any document was not called from management about his date of birth. After receiving Form B from contractor, any document about date of birth was not called from workman. After workman was appointed as regular employee in 1996, documents about his date of birth was called from him. Management's witness claims ignorance that the date of birth of workman in Form B register was written by oral information or on the basis of documents. Management's witness claims ignorance whether in 1997, workman submitted application for correction of date of birth along with School Leaving Certificate of 5th standard. He admits that service record of workman, his date of birth was shown as per Form B Register. Management's witness denied copy of Form B Register shown to him. Management's witness claims ignorance whether information in M-5 was not personally filed by workman.

9. Though workman claims that he had submitted application for correction of date of birth, said document is not proved. Turning to documentary evidence, in Exhibit W-1 order of superannuation, Exhibit W-2 appointment order dated 12-10-96 date of birth of workman is recorded 18-4-50. In Exhibit W-3 Marksheet W-4 Transfer Certificate date of birth of workman is recorded 14-2-58. Those documents were not produced by workman before contractor or management of Bhilai Steel Plant. Documents produced by management Exhibit M-1 is Circular No. 87. Para 2(1) provides- Wherever the date of birth/ age of employees has already been established on the basis of any valid documents once produced such as Educational Certificate, Gram Panchayat Certificate or Service Certificate from the previous employer etc. the same should not be changed at all. Para-2 provides that personal data, service book, attestation form, application for admission to CPF etc. duly signed by the employee and accepted by the management, the same should be treated as final and no more change be allowed at a subsequent stage. Exhibit M-2 is circular dated 10-4-04- Para 3(ii) provides- No change in the date of birth shall be allowed if such requests are received from employees during the last 5 years of their service for any reason whatsoever. In Exhibit M-4,5 & 7, date of birth of workman is recorded 18-4-50. Exhibit M-6 is Driving Licence issued to workman on 16-2-72. Workman was informed about superannuation vide Exhibit M-7. In Exhibit M-8, his date of birth is recorded 18-4-50. There is no cogent evidence that workman requested correction of his date of birth in 1997 or till his retirement. Exhibit M-11 is judgment by Civil Court in case of Kailash Nath Yadav which is not useful for deciding dispute between parties. Considering evidence and the circulars produced by management, claim of workman for correction of date of birth is not justified. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of Bhilai Steel Plant is justified in not changing the date of birth of Shri Bishal Singh P.No.857483 from 18-4-1950 to 14-4-1958 is legal and proper.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 8 सितम्बर, 2017

का.आ. 2180.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 06/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/09/2017 को प्राप्त हुआ था।

[सं. एल-22012/326/1994-आई. आर. (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 8th September, 2017

S.O. 2180.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 06/1995) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 07/09/2017.

[No. L-22012/326/1994 - IR(C-II)]

RAJENDER SINGH, Section Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 06/1995

सीआईएस नंबर 59/2014

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-22012/एफ (326)/94- आई.आर. (सी-II) दिनांक 1.2.1995

श्री लेखराज पुत्र श्री अतुराम सिंह मार्फत कपड़ा वस्त्र भंडार श्री विजय नगर, जिला-श्रीगंगानगर —प्रार्थी

बनाम

क्षेत्रीय मैनेजर, भारतीय खाद्य निगम, डी-39, सुभाष मार्ग, सी-स्कीम, जयपुर —अप्रार्थी

पीठासीन अधिकारी: श्री गिरीश कुमार शर्मा, आर.एच.जे.एस.

उपस्थित

प्रार्थी की ओर से विद्वान प्रतिनिधि श्री आर.सी. जैन। अप्रार्थी की ओर से विद्वान प्रतिनिधि श्री सतीश चंद मित्तल।

दिनांक अवार्ड : 15.05.2017

अवार्ड

भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक एल-22012/326/94-आई.आर.(सी-II) दिनांक 1.2.1995 के स्थान पर दिनांक 24.7.2002 को अनुसूची का निम्न विवाद का रेफरेंस प्राप्त हुआ कि :

“Whether the action of the management of FCI at regional office jaipur and that at its Depot sribijainagar in terminatting Sh. Lekhraj from services is legal & justified ? If not what relief the workman is Entitled to?”

प्रार्थी यूनियन की ओर से स्टेटमेंट ऑफ क्लेम पेश कर अभिकथन किया है कि प्रार्थी श्रमिक लेखराज की नियुक्ति विपक्षी निगम के मौखिक आदेश दिनांक 19.12.1986 से विजय नगर आगार में की गई थी। विपक्षी निगम द्वारा प्रार्थी श्रमिक को अकारण ही दिनांक 15.4.1989 को सेवा से अलग कर दिया। प्रार्थी श्रमिक द्वारा एक वर्ष की सेवा अवधि में 240 दिवस से अधिक कार्य किया है। प्रार्थी द्वारा हटाने के बाद स्वयं पुनः कार्य पर लेने बाबत प्रार्थना करने पर भी उसे काम पर नहीं लिया गया। जिसकी शिकायत केन्द्रीय सहायक श्रम आयुक्त जयपुर के समक्ष की जाने पर कोई समझौता नहीं हुआ। विपक्षी संस्थान द्वारा दैनिक वेतन भोगी श्रमिक की वरिष्ठता सूची बनाई गयी जो सहायक श्रम आयुक्त केन्द्रीय जयपुर के यू.ओ. नोट दिनांक 9.10.92 के अनुसार प्रार्थी का नाम क्रम संख्या 2 पर वरिष्ठता में अंकित था। विपक्षी निगम द्वारा वरिष्ठता सूची में से 1 से 2 तक के श्रमिकों को स्थाई कर दिया गया लेकिन प्रार्थी श्रमिक को स्थाई नहीं किया गया। विपक्षी निगम द्वारा औद्योगिक विवाद के नियम 1957 की धारा 77-78 का उल्लंघन किया है। विपक्षी निगम द्वारा प्रार्थी को सेवा से हटाने के बाद अपने चहेते श्रमिक कानाराम, हुकमचंद, नन्दूराम आदि कई श्रमिकों को रख लिया गया। विपक्षी द्वारा अधिनियम की धारा 25-जी एवं 25 एच, 25 एफ के आज्ञापक प्रावधानों का उल्लंघन किया गया है। प्रार्थी श्रमिक को कभी कोई नोटिस या आरोप पत्र नहीं दिया गया। प्रार्थी की सेवामुक्ति अनुचित व अवैध है। अन्त में प्रार्थी श्रमिक की सेवामुक्ति अनुचित एवं अवैध तथा शून्य करार दिये जाने तथा उसे पुनः पिछली पूरी वेतन सेवाओं का लाभ तथा मुकदमा खर्चा दिलाये जाने का निवेदन किया है।

विपक्षी निगम द्वारा स्टेटमेंट ऑफ क्लेम का जवाब प्रस्तुत कर अभिकथन किया कि प्रार्थी श्रमिक को अप्रार्थी निगम द्वारा कभी नियुक्त नहीं किया गया वरन् वह मैसर्स महेन्द्र सिंह रणजोध सिंह, हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रक्टर श्री विजय नगर द्वारा नियोजित किया गया था। प्रार्थी श्रमिक द्वारा कभी भी लगातार कार्य नहीं किया गया तथा संबंधित वर्ष में 240 दिवस से अधिक कार्य नहीं किया गया। प्रार्थी श्रमिक द्वारा स्वेच्छया से काम पर आना बंद कर दिया था। विपक्षी निगम द्वारा हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रक्टर द्वारा नियोजित कर्मचारों को एक समझौते के तहत स्थाई करने का फैसला लिया गया था लेकिन प्रार्थी श्रमिक द्वारा लगातार 3 वर्ष तक कार्य नहीं करने के कारण कोई लाभ नहीं दिया गया। प्रार्थी द्वारा वर्ष 1990-91 में भी कार्य नहीं किया गया। प्रार्थी श्रमिक को विपक्षी निगम द्वारा कभी सेवामुक्त नहीं किया गया। अतः प्रार्थी श्रमिक कोई लाभ प्राप्त करने का अधिकारी नहीं है। प्रार्थी श्रमिक द्वारा हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रक्टर को भी पक्षकार नहीं बनाया गया है। अंत में प्रार्थी का स्टेटमेंट ऑफ क्लेम खारिज किए जाने की प्रार्थना की है।

प्रार्थी ने जवाब अप्रार्थी का जवाबुलजवाब पेश कर अभिकथन किया है कि प्रार्थी को अप्रार्थी निगम द्वारा नियोजित किया गया था तथा दिनांक 19.12.1986 से केजुअल लेबर के कार्य पर रखा था तथा दिनांक 19.12.1986 से दिनांक 15.4.1989 तक लगातार कार्य किया है।

प्रार्थी श्रमिक की ओर से अपने स्टेटमेंट ऑफ क्लेम के समर्थन में प्रार्थी साक्षी लेखराज परीक्षित हुआ है तथा प्रलेखीय साक्ष्य में दस्तावेज प्रदर्श डवल्यू-1 एवं डवल्यू-2 प्रदर्शांकित हुए हैं। विपक्षी निगम की ओर से विपक्षी साक्षी सर्वश्री रामवीर सिंह, नरेन्द्र देव शर्मा, बलविन्द्र सिंह, केशूराम परीक्षित हुए हैं तथा प्रलेखीय साक्ष्य में दस्तावेज प्रदर्श एम-1 लगायत एम-8 प्रदर्शांकित हुए हैं।

मैंने उभय पक्ष के विद्वान प्रतिनिधिगण की बहस सुनी एवं लिखित बहस का एवं अभिलेख का परिशीलन किया।

अब सर्वप्रथम प्रार्थी साक्षी लेखराज की साक्ष्य का परिशीलन करें तो इस गवाह ने अपनी साक्ष्य में बताया है कि उसकी नियुक्ति विपक्षी खाद्य निगम आगार विजय नगर में दैनिक वेतन भोगी के रूप में दिनांक 19.12.1986 को 11 रुपये प्रतिदिन के हिसाब से मौखिक आदेश द्वारा की गई थी तथा वह नियुक्ति तिथि से लगातार कार्य करता आ रहा था तथा विपक्षी संस्थान ने उसको मौखिक आदेश से दिनांक 15.4.1989 को सेवा से अलग कर दिया जिसका कोई कारण भी स्पष्ट नहीं किया तथा उसने सेवामुक्ति से पूर्व प्रतिवर्ष अथवा एक वर्ष की सेवा अवधि में 240 दिवस से अधिक कार्य किया है तथा उसकी सेवामुक्ति के बाद उसने व्यक्तिशः सम्पर्क कर कार्य पर लेने का निवेदन किया लेकिन कोई सुनवाई नहीं की तथा फिर उसने शिकायत श्रम आयुक्त केन्द्रीय जयपुर के समक्ष की जिसका जवाब विपक्षी ने प्रदर्श डवल्यू-1 पेश किया तथा प्रार्थी विपक्षी के गोदाम में सफाई चौकीदारी एवं दवाई डालना आदि का कार्य करता था तथा विपक्षी के सहायक आगार प्रबंधक द्वारा दिनांक 26.7.1989 को प्रमाण पत्र जारी किया जो प्रदर्श डवल्यू-2 है तथा उसकी हाजिरी विपक्षी के केजुअल श्रमिक के रजिस्टर में होती थी तथा उसको भुगतान विपक्षी संस्थान के सहायक आगार प्रबंधक द्वारा किया जाता था तथा वर्ष 1992 में विपक्षी संस्थान में कार्य करने वाले आकस्मिक श्रमिकों की एवं ठेकेदारों के श्रमिक की वरिष्ठता सूची केन्द्र को भेजी गई जिसमें भी उसका नाम अंकित है तथा उससे कनिष्ठ श्रमिक सोहनलाल आज भी कार्य कर रहा है तथा उसको सेवा से अलग करने के बाद हुक्मराम, कानाराम को केजुअल श्रमिक रखा गया है तथा वह हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रक्टर का श्रमिक कभी नहीं रहा है तथा वह विपक्षी संस्थान का श्रमिक रहा था तथा उसको सेवामुक्ति से पूर्व एक माह का नोटिस या एवज में एक माह का नोटिस वेतन या क्षतिपूर्ति मुआवजा का भुगतान नहीं किया गया है। प्रतिपरीक्षा में इस गवाह ने अभिसाक्ष्य दी है कि वह सन् 1989 में अप्रैल महीने तक लगातार कार्य किया है तथा सन् 1989 में दहाड़ी के हिसाब से तीन माह की तनखाह मिली थी तथा अनाज के उतार-चढ़ाव का कार्य अनाज के आने एवं जाने पर रहता है, रोज नहीं रहता है। जिरह में इस गवाह ने बताया है कि उन्हें विपक्षी अनाज आने व जाने पर बुलाती थी एवं वह काम रोजाना ही मिलता था तथा वह लगातार जाता था तथा उसको विपक्षी संस्थान का कैशियर भुगतान देता था तथा तनखाह वाउचर पर हस्ताक्षर करवाकर देता था। जिरह में इस गवाह ने बताया है कि सन् 1987 में उसने लगातार कार्य किया है जिसका प्रमाण पत्र पत्रावली में मौजूद है। इस गवाह ने इस सुझाव से इंकार किया है कि उसको ठेकेदार ने नियुक्त किया हो और ठेकेदार ही वेतन देता हो।

अप्रार्थी साक्षी नरेन्द्र देव जो कि सहायक प्रबंधक भारतीय खाद्य निगम में है इस गवाह ने अभिसाक्ष्य दी है कि प्रार्थी कर्मकार को भारतीय खाद्य निगम द्वारा कभी नियुक्त नहीं किया गया वरन् वह मै. महेन्द्र सिंह रणजोध सिंह हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रक्टर श्री विजय नगर के द्वारा नियोजित था तथा दिनांक 19.12.

1986 से विपक्षी संस्थान द्वारा कार्य पर लगाना कतई गलत लिखा गया है तथा भारतीय खाद्य निगम द्वारा हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रेक्टर द्वारा नियोजित कर्मचारों को अपने संस्थान में रखने व स्थायी करने का फैसला एक समझौता दिनांक 12.4.1991 के अन्तर्गत हुआ था परन्तु उक्त समझौता के अनुसार प्रार्थी द्वारा तीन वर्ष लगातार कार्य नहीं करने के कारण कोई लाभ प्राप्त करने का अधिकारी नहीं रहा। क्योंकि प्रार्थी द्वारा वर्ष 1990-91 में अन्य कर्मचारियों के साथ कार्य नहीं किया था अतः प्रार्थी को उक्त समझौता का कोई फायदा प्राप्त करने का अधिकारी नहीं पाया गया तथा प्रार्थी को अप्रार्थी संस्थान द्वारा कभी भी सेवामुक्त नहीं किया गया है प्रार्थी स्वयं सन् 1990-91 में कार्य पर उपस्थित न होने के कारण व समझौता के तहत कोई भी लाभ प्राप्त करने का अधिकारी नहीं रहा। जिरह में इस गवाह ने बताया है कि केजुअल लेबर की वरिष्ठता सूची उसके सहायक ने बनायी थी तथा प्रदर्श एम-4 पर ए से बी उसके हस्ताक्षर है इसमें कार्यदिवस सही है ठेकेदार का कोई रिकार्ड लेखराज के बारे में पेश नहीं है तथा ठेकेदार का रिकार्ड प्रदर्श एम-5 व 6 है तथा लेखराज को स्थायी नहीं किया था।

अप्रार्थी साक्षी रामवीर सिंह ने अभिसाक्ष्य दी है कि प्रार्थी श्रमिक को अप्रार्थी संस्थान ने नियोजित नहीं किया था तथा 12 माह में प्रार्थी ने 240 दिन लगातार कार्य नहीं किया तथा प्रार्थी ठेकेदार का श्रमिक था तथा प्रार्थी को सेवामुक्त नहीं किया गया बल्कि प्रार्थी स्वयं ही कार्य पर उपस्थित नहीं हुआ था। जिरह में इस गवाह ने इस सुझाव से इंकार किया है कि प्रार्थी लेखराज ने दिनांक 19.12.1986 से 15.4.1989 तक काम किया हो और कार्य दिवस का चार्ट प्रदर्श एम-3 है तथा प्रदर्श एम-4 से प्रदर्श एम-8 पेश किए हैं। इस गवाह ने इस सुझाव से इंकार किया है कि लेखराज को विभाग ने रखा हो और हाजिरी व पेमेंट देता हो।

अप्रार्थी साक्षी बलविन्दर सिंह ने अभिसाक्ष्य दी है कि वह सन् 1982 से हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर के यहां नौकरी करता है तथा लेखराज ठेकेदार का केजुअल श्रमिक था तथा दिनांक 12.4.1991 का समझौता प्रदर्श एम-7 है तथा दिनांक 1.10.1991 को मीटिंग एफसीआई के साथ हुई जिसमें केजुअल श्रमिक को वरिष्ठता के अनुसार विपक्षी श्रमिक की सेवा में लिया था जिसकी प्रति प्रदर्श एम-8 है तथा लेखराज ने अप्रैल 1989 में केवल 16 दिन कार्य किया था तथा लेखराज ने निगम में सन् 1986 में सेवा में नियुक्त नहीं हुआ तथा उसे कभी सेवामुक्त नहीं किया गया था। जिरह में इस गवाह ने प्रदर्श डवल्यू-2 प्रमाण पत्र भारतीय खाद्य निगम के सहायक प्रबंधक द्वारा जारी होना स्वीकारा है तथा जिरह में इस गवाह ने यह स्वीकारा है कि लेखराज हैण्डलिंग एण्ड ट्रांसपोर्ट का कार्य नहीं करता था तथा वह ठेकेदार का कर्मचारी हो ऐसा कोई प्रमाण पेश नहीं किया है।

अप्रार्थी साक्षी केशूराम ने अपनी साक्ष्य में बताया है कि वह हैण्डलिंग एण्ड ट्रांसपोर्ट ठेकेदार के यहां सन् 1980 से कार्यरत था तथा लेखराज केजुअल श्रमिक था तथा निगम ने लेखराज को दिसम्बर 1986 में सेवा में नियुक्त नहीं किया था तथा माह अप्रैल 1989 में सेवामुक्त नहीं किया था। जिरह में इस गवाह ने बताया है कि लेखराज ठेकेदार का कर्मचारी हो, ऐसा कोई प्रमाण पेश नहीं किया है। उसने शपथ पत्र पढा नहीं था, अफसरों ने शपथ पत्र पर हस्ताक्षर करवा लिए थे।

अब न्यायाधिकरण के समक्ष अवधारणीय बिन्दु यह है कि क्या प्रार्थी कर्मकार श्री लेखराज विपक्षी निगम के द्वारा नियुक्त कर्मकार था या कान्ट्रेक्टर के मार्फत? इससंबंध में विपक्षी निगम के विद्वान प्रतिनिधि ने बहस की कि प्रार्थी श्रमिक ने नियुक्ति का कोई आदेश पेश नहीं किया है तथा विपक्षी संस्थान में ठेकेदार के मार्फत कर्मचारी लगाए जाते रहे हैं तथा प्रार्थी श्रमिक हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर का श्रमिक था जो दस्तावेज प्रदर्श एम-3 से प्रदर्श एम-8 से प्रकट है तथा प्रदर्श डवल्यू-2 वर्ष 1989 का है इससे यह स्पष्ट नहीं होता कि प्रार्थी श्रमिक ने कितने दिन किसके माध्यम से कार्य किया तथा प्रार्थी श्रमिक अप्रार्थी द्वारा नियोजित नहीं किया गया था।

इसके प्रतिकार में प्रार्थी के विद्वान प्रतिनिधि ने बहस की कि प्रार्थी श्रमिक को भारतीय खाद्य निगम के गोदाम में सफाई, चौकीदारी व दवाई डालने के कार्य के लिए केजुअल लेबर के रूप में 11/-रु. प्रतिदिन के हिसाब से दिनांक 19.12.1986 से मौखिक आदेश से नियुक्त किया गया था तथा प्रार्थी श्रमिक हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर का कभी श्रमिक नहीं रहा था जो कि अप्रार्थी निगम के जवाब प्रदर्श डवल्यू-1 व प्रमाण पत्र प्रदर्श डवल्यू-2 से स्पष्ट है तथा हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर के दस्तावेज प्रदर्श एम-5 से प्रदर्श एम-8 से कोई श्रमिक इस ठेकेदार का श्रमिक रहा हो ऐसा कोई उल्लेख नहीं है बल्कि माह अप्रैल 1988 में हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर को ठेका दिया गया था जबकि प्रार्थी श्रमिक तो सन् 1986 से विपक्षी निगम का दैनिक वेतन भोगी कर्मचारी था तथा विपक्षी की साक्ष्य से यह तथ्य कतई स्थापित नहीं है कि प्रार्थी कान्ट्रेक्टर का श्रमिक हो।

मैंने उभय पक्ष के विद्वान प्रतिनिधिगण की मौखिक व लिखित बहस पर मनन किया। एवं अभिलेख का परिशीलन किया।

अभिलेख के परिशीलन से प्रार्थी साक्षी लेखराज की साक्ष्य का विवेचन करें तो प्रार्थी साक्षी लेखराज ने अपनी मुख्य परीक्षा तो शपथ पत्र पर दी है उसमें साफतौर से अभिसाक्ष्य दी है कि उसकी नियुक्ति विपक्षी खाद्य निगम आगार विजय नगर में दैनिक वेतन भोगी श्रमिक के रूप में मौखिक आदेश से दिनांक 19.12.1986 को 11/-रु. प्रतिदिन के हिसाब से की गई थी। इस गवाह की जिरह में यह तथ्य आया है कि माह अप्रैल 1989 तक लगातार किया है तथा सन् 1989 में उसको तीन माह का वेतन दहाड़ी के हिसाब से मिला था तथा उसको भुगतान विपक्षी निगम का कैशियर देता था तथा सन् 1987 में उसने लगातार कार्य किया है। इस गवाह की जिरह में इस बिन्दु पर कोई प्रतिपरीक्षण नहीं है कि उसको विपक्षी निगम द्वारा दिनांक 19.12.1986 को 11/-रु. प्रतिदिन के हिसाब से दैनिक वेतन भोगी के रूप में नियोजित न किया हो तथा प्रदर्श डवल्यू-1 व प्रदर्श डवल्यू-2 को भी जिरह में एसेल नहीं किया गया है तथा विपक्षी साक्षीगण नरेन्द्र देव शर्मा व रामवीर सिंह एवं बलविन्द्र सिंह एवं केशुराम की साक्ष्य से भी ऐसी कोई साक्ष्य नहीं आयी है कि सन् 1986 व सन् 1987 में प्रार्थी श्रमिक का हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर द्वारा नियोजित किया गया हो बल्कि गवाह बलविन्द्र सिंह की साक्ष्य से यह स्पष्ट है कि मै. महेन्द्र सिंह रणजोत ठेकेदार वर्ष 1988-89 व 1989-90 व 1990-91 में कान्ट्रेक्टर थे तो फिर अप्रार्थी के दस्तावेज प्रदर्श एम-4 जो कि माह अप्रैल 1988 से मार्च 1991 तक का स्टेटमेंट उपस्थिति का है जिसमें केजुअल लेबर के रूप में क्रम संख्या 2 में प्रार्थी श्रमिक लेखराज की उपस्थिति वर्ष 1988-89 में 267 दिवस दिखा रखी है तथा यह दस्तावेज विपक्षी निगम का है तथा जिसमें कोई कान्ट्रेक्टर का श्रमिक प्रार्थी को नहीं बताया हुआ है हालांकि प्रदर्श एम-3 में एच एण्ड टी कान्ट्रेक्टर के थू बता रखा है लेकिन वर्ष 1986 से 1987 को जब प्रार्थी का नियोजक अप्रार्थी निगम है तो यह कोई अकाट्य या सम्भाव्य साक्ष्य इस हेतु प्रार्थी के मुकाबले नहीं है तथा प्रदर्श एम-5 से प्रदर्श एम-8 में प्रार्थी श्रमिक का कोई नाम अंकित नहीं है तथा जब अप्रार्थी निगम की साक्ष्य से ही यह स्पष्ट है कि मै0 हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर तो माह अप्रैल 1988-1989 से विपक्षी निगम के साथ संविद की है तो फिर प्रार्थी श्रमिक तो दिनांक 19.12.1986 से विपक्षी निगम में दैनिक वेतन भोगी श्रमिक के रूप में कार्यरत हुआ है जो विपक्षी निगम के द्वारा सहायक श्रम आयुक्त केन्द्रीय जयपुर के यहां पेश जवाब प्रदर्श डवल्यू-1 में विपक्षी निगम के यहां दिनांक 19.12.1986 से नियोजित होने का तथ्य दर्शाता है तथा विपक्षी निगम के सहायक आगार प्रबंधक का प्रमाण पत्र प्रदर्श डवल्यू-2 प्रार्थी श्रमिक को दिनांक 1.1.1987 से विपक्षी निगम में कार्यरत होने का तथ्य दर्शाता है जिसकी विपक्षी निगम की ओर कोई खण्डकारी साक्ष्य इस तथ्य के बारे में नहीं है तो फिर उभय पक्ष की साक्ष्य के विवेचन के फलस्वरूप न्यायाधिकरण का विनम्र मत यह है कि प्रार्थी साक्षी लेखराज की मौखिक एवं दस्तावेजी शहादत से प्रार्थी श्रमिक दैनिक वेतन भोगी के रूप में दिनांक 19.12.1986 से दिनांक 15.4.1989 तक विपक्षी निगम में कार्यरत होना स्थापित है।

अब न्यायाधिकरण को यह देखना है कि क्या प्रार्थी श्रमिक को सेवा से हटाए जाने के पूर्ववर्ती वर्ष में एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य पर संलग्न रहा है?

इस संबंध में प्रार्थी के विद्वान प्रतिनिधि ने बहस की कि प्रार्थी श्रमिक दिनांक 19.12.1986 से दिनांक 15.4.1989 तक कार्यरत रहा है तथा एक वर्ष से अधिक समयावधि में सेवा में रहने से 240 दिवस से कम कार्य किया हो, यह तथ्य स्थापित करने का भार नियोजक पर है जबकि प्रार्थी की साक्ष्य से एक वर्ष से अधिक अवधि तक कार्य करना स्थापित है। इसके प्रतिकार में अप्रार्थी निगम के विद्वान प्रतिनिधि ने बहस की कि रेफरेंस के निबन्धन में सेवामुक्त किए जाने की तारीख माह वर्ष अंकित न होने से इस न्यायाधिकरण को सेवा पर्यवसान प्रार्थी कर्मकार द्वारा बताए जाने पर वह तिथि मानने का क्षेत्राधिकार नहीं है तथा प्रार्थी श्रमिक ने 240 दिवस से अधिक कार्य नहीं किया है।

अप्रार्थी निगम के विद्वान प्रतिनिधि ने इस तर्क के संबंध में न्यायाधिकरण का ध्यान निम्न न्यायिक विनिश्चयों की ओर आकृष्ट किया है -

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 9. जी.एस. कोल डबल्यू डबल्यू यूनियन बनाम एम्पलॉयर्स मैनेजमेंट ऑफ दुग्ध वाशरी ऑफ बीसीसीएल ए आई आर 2016 एस.सी. 4441

इसके प्रतिकार में प्रार्थी के विद्वान प्रतिनिधि ने दलील प्रस्तुत की कि कर्मकार ने एक वर्ष में 240 दिन से कम कार्य किया। यह तथ्य स्थापित करने का भार नियोजक पर है तथा प्रार्थी श्रमिक का दिनांक 15.4.1989 को सेवा से न हटाया गया हो इस तथ्य पर विवाद न होकर अप्रार्थी निगम का यह अभिवचन व साक्ष्य है कि वर्ष 1989-90 में कर्मकार स्वयं कार्य पर उपस्थित नहीं हुआ इसलिए जहां सेवा पर्यवसान की तिथि का विवाद न हो वहां रेफरेंस के निबन्धन में सेवा पर्यवसान की तिथि अंकित भी न हो तो कोई फर्क नहीं पड़ता है बल्कि विपक्षी निगम ने रेफरेंस की वैधता को चुनौती दी थी जिसको माननीय राजस्थान उच्च न्यायालय ने आदेश एस.बी. सिविल रिट पिटीसन नंबर 6551/2003 दिनांक 24.5.2005 से खारिज हो गई है तथा जो डी.बी. सिविल स्पेशल अपील रिट नंबर 728/2005 आदेश दिनांक 11.8.2005 से विपक्षी निगम की खारिज हो गई थी तथा प्रार्थी के विद्वान प्रतिनिधि ने न्यायाधिकरण का ध्यान निम्न न्यायिक विनिश्चयों की ओर आकृष्ट किया है —

1. श्रीराम इण्डस्ट्रियल एन्टरप्राइजेज लि. बनाम महक सिंह व अन्य। (2007) 1 एस सी सी (एल एण्ड एस) 961
2. 1998 डबल्यू एल सी (यू सी) 178
3. 2000 (87) एफ एल आर 228 बम्बई
4. 2003(1) डबल्यू एल सी 47
5. हरिनंदन प्रसाद व अन्य बनाम एम्पलॉयर आई/आर मैनेजमेंट ऑफ एफसीआई व अन्य। 2014 (141) एफ एल आर 74
6. पी वी के डिस्टिलरी लि. बनाम महेन्द्र राम
ए आई आर 2009 एस सी 2205
7. मै. रीतू मार्बल बनाम प्रभाकांत शुक्ला 2010 (124) एफ एल आर 72
8. स्टेट ऑफ राजस्थान व अन्य बनाम श्रीमति गीता बाई व अन्य 2007(5) डबल्यू एल सी 466
9. हिन्दुस्तान मशीन टूल्स लि. अजमेर बनाम इन्डस्ट्रियल ट्रिब्यूनल जयपुर व अन्य। 1993(1) डबल्यू एल सी 415
10. मै. डीसीएम श्रीराम कंसोलिटेड लि. बनाम स्टेट व अन्य। 2010(4) डबल्यू एल सी 660

मैंने उभय पक्ष के विद्वान प्रतिनिधिगण की बहस पर मनन किया एवं उपरोक्त न्यायिक विनिश्चयों का सम्मानपूर्वक परिशीलन किया।

अभिलेख के परिशीलन से अप्रार्थी निगम का जवाब प्रदर्श डबल्यू-1 में दिनांक 19.12.1986 से दिनांक 15.4.1989 तक प्रार्थी श्रमिक का कार्य पर संलग्न होना एवं माह अप्रैल 1989 में स्वयं कार्य पर उपस्थित न होने का अभिवचन किया है तथा प्रार्थी श्रमिक दिनांक 19.12.1986 से एवं वर्ष 1987 में प्रमाण पत्र प्रदर्श डबल्यू-2 से दैनिक वेतन भोगी के रूप में कार्य करना प्रत्यक्ष रूप से प्रकट है तथा प्रमाण पत्र जारी करने

वाले सहायक आगार प्रबंधक को साक्ष्य में पेश करके प्रदर्श डबल्यू-2 का कोई खण्डन भी विपक्षी की ओर से नहीं है तथा विपक्षी के ही दस्तावेज प्रदर्श एम-4 में माह मार्च 1988 से अप्रैल 1989 तक 284 दिवस तो कार्य करना स्पष्ट है तो फिर प्रार्थी निरन्तर सन् 1987 व सन् 1988 में कार्य किया तो कलेण्डर वर्ष 12 माह में 240 दिवस से कम कार्य किया हो यह साबित करने का भार जब प्रार्थी श्रमिक ने अपनी मौखिक साक्ष्य एवं दस्तावेज प्रदर्श डबल्यू-1 व विपक्षी निगम का प्रमाण पत्र प्रदर्श डबल्यू-2 से प्रारम्भिक भार का निष्पादन करने के पश्चात् विपक्षी निगम ने कोई प्रार्थी साक्ष्य का खण्डन नहीं किया है कि प्रार्थी श्रमिक ने 240 दिवस से कम कार्य किया हो बल्कि अप्रार्थी के दस्तावेज प्रदर्श एम-4 से भी वर्ष अप्रैल 1988 से मार्च 1989 में ही 284 दिवस कार्य करना तो प्रकट स्थिति है बल्कि प्रार्थी श्रमिक ने तो लगातार वर्ष 1987 व वर्ष 1988 में तो पूरे कलेण्डर वर्ष कार्य करना आया है तथा विपक्षी साक्ष्य से तो केवल इतना आया है कि श्रमिक ने माह अप्रैल 1989 में स्वयं कार्य पर उपस्थित नहीं हुआ बल्कि अप्रार्थी की साक्ष्य तो वर्ष 1990-91 की बात आयी है तथा जहां तक अप्रार्थी के विद्वान प्रतिनिधि की यह दलील रही है कि रेफरेंस निबन्धन में छंटनी की तिथि का अंकन नहीं है इसलिए रेफरेंस विधि विरुद्ध होने से न्यायाधिकरण को क्षेत्राधिकार नहीं है। इस तर्क के संबंध में अप्रार्थी की ओर से प्रस्तुत न्यायिक विनिश्चय 2003 डबल्यू एल सी (राज) यू सी 127 व 2003 डबल्यू एल सी राज. यू सी 424 की ओर न्यायाधिकरण का ध्यान आकृष्ट किया है जबकि अप्रार्थी के विद्वान प्रतिनिधि ने बहस की कि जब श्रमिक वर्ष 1987 व 1988 कलेण्डर वर्ष में एक वर्ष से अधिक लगातार 240 दिवस से अधिक सेवा कर ली है तो फिर दिनांक 15.4.1989 को सेवा से पर्यवसान का कोई विवाद या आपत्ति विपक्षी निगम द्वारा नहीं उठायी गयी है बल्कि यह अभिवाक् आया है कि अप्रार्थी निगम की प्रार्थी ने स्वयं काम पर आना बंद कर दिया तो फिर इस तिथि पर कोई विवाद नहीं है। इस तर्क के समर्थन में प्रार्थी के विद्वान प्रतिनिधि ने न्यायाधिकरण का ध्यान न्यायिक विनिश्चय राजस्थान राज्य व अन्य बनाम श्रीमति गीता बाई व अन्य 2007(5) डबल्यू एल सी राज. 466 की ओर न्यायाधिकरण का ध्यान आकृष्ट किया है।

उभय पक्ष के विद्वान प्रतिनिधि के तर्कों पर गंभीरता से मनन किया एवं उपरोक्त न्यायिक विनिश्चयों का सम्मानपूर्वक परिशीलन किया।

अभिलेख के परिशीलन से अप्रार्थी का जवाब प्रदर्श डबल्यू-1 में प्रार्थी श्रमिक का कार्य विपक्षी निगम में दिनांक 19.12.1986 से दिनांक 15.4.1989 तक करने के बारे में अभिकथन है लेकिन लगातार कार्य नहीं करना बताया है तथा माह अप्रैल 1989 में प्रार्थी श्रमिक स्वेच्छया कार्य पर उपस्थित न होना बताया है तथा प्रार्थी के स्टेटमेंट ऑफ क्लेम में दिनांक 15.4.1989 को कार्य से हटाने का अभिवचन है जिसका विपक्षी निगम के जवाब में इस तिथि से विनिर्दिष्ट रूप से इंकारी नहीं है तथा जब रेफरेंस को माननीय उच्च न्यायालय में अप्रार्थी ने चेलेंज रिट पिटीसन में किया तो इस बिन्दु को चेलेंज नहीं किया था तथा हस्तगत मामले में 240 दिवस से अधिक कार्य श्रमिक द्वारा किया जाना स्थापित है तो फिर पर्यवसान की तिथि का सारवान विवाद पक्षकारान में न होने से एवं रेफरेंस में सेवापर्यवसान की न्यायोचितता का प्रश्न अन्तर्वर्तित होने से एवं अप्रार्थी की ओर से प्रस्तुत न्यायिक विनिश्चयों के मामले के तथ्य पर्यवसान की तिथि का 240 दिवस की तिथि से गणना के दृष्टिकोण से विवाद अन्तर्गत होने से जबकि राजस्थान राज्य व अन्य बनाम श्रीमति गीता बाई व अन्य 2007(5) डबल्यू एल सी 466 में माननीय उच्च न्यायालय द्वारा पेश 17 व 18 में प्रतिपादित सिद्धांत की रोशनी में हस्तगत मामले में सेवा पर्यवसान की तिथि सारवान विवाद पक्षकारान के मध्य न होकर अनुषंगी विषय होने से रेफरेंस अवैध हो ऐसा माने जाने के लिए कोई आधारभूत स्थिति न होने से अप्रार्थी के विद्वान प्रतिनिधि की इस दलील में कोई सार नजर नहीं आता है तथा अप्रार्थी निगम की सेवा में प्रार्थी स्वयं कार्य छोड़ा हो ऐसी अप्रार्थी की कोई विधिजन्य साक्ष्य न होने से अप्रार्थी निगम द्वारा प्रार्थी जो कि केजुअल श्रमिक दैनिक वेतन भोगी था उसका दिनांक 15.4.1989 को सेवा पर्यवसान किया जाना न्यायोचित प्रतीत नहीं होता है बल्कि औद्योगिक विवाद अधिनियम की धारा 25 एफ की पालना विपक्षी निगम द्वारा नहीं किए जाने से प्रार्थी श्रमिक किसी नियमित पद के विरुद्ध पदस्थापित न होने से एवं नियमितीकरण का कोई मामला प्रार्थी का न होने से प्रार्थी श्रमिक दैनिक वेतन भोगी के रूप में दिनांक 19.12.1986 से दिनांक 15.4.1989 तक करीब 2 वर्ष 4 माह तक कार्य करने से विपक्षी निगम का कर्मकार औद्योगिक विवाद अधिनियम 1947 की धारा 25 एफ का विपक्षी निगम द्वारा अतिलंघन करने से उभय पक्ष की ओर से प्रस्तुत न्यायिक विनिश्चयों की रोशनी में प्रार्थी कर्मकार पुनः केजुअल लेबर के रूप में पुनःस्थापना का समायावधि काफी व्यपगत होने के पश्चात् श्रमिक द्वारा विवाद उठाने से मामले के तथ्य एवं परिस्थिति में प्रार्थी श्रमिक को एक लाख पचास हजार रुपये क्षतिपूर्ति के बतौर अवैध छंटनी के कारण दिलाया जाना न्यायोचित प्रतीत होता है। अतः उपरोक्त विवेचन के फलस्वरूप प्रार्थी श्रमिक का विपक्षी निगम द्वारा सेवा पर्यवसान किया जाना विधिसम्मत एवं न्यायोचित नहीं होना पाया जाता है

एवं प्रार्थी श्रमिक विपक्षी निगम से प्रार्थी की सेवा से छंटनी अविधिसम्मत होने से बतौर प्रतिकर एक लाख पचास हजार रुपये दिलाया जाना न्यायोचित है।

अतः उपरोक्त विवेचन के फलस्वरूप इस रेफरेंस का उत्तर उपरोक्तानुसार देते हुए निम्न अधिनिर्णय पारित किया जाना समीचीन प्रतीत होता है —

अधिनिर्णय

अतः “विपक्षी भारतीय खाद्य निगम क्षेत्रीय कार्यालय जयपुर के आगार श्री विजय नगर द्वारा प्रार्थी श्रमिक लेखराज का सेवा पर्यावसान किया जाना विधिसम्मत एवं न्यायोचित नहीं है तथा प्रार्थी कर्मकार श्री लेखराज विपक्षी निगम से बतौर छंटनी प्रतिकर के एक लाख पचास हजार रुपये पाने का मुश्तहक है जो विपक्षी निगम अधिनिर्णय की तिथि से 6 माह में प्रार्थी कर्मकार श्री लेखराज को संदाय करें अन्यथा प्रार्थी श्रमिक उक्त अवार्ड की तिथि से 6 प्रतिशत वार्षिक दर से ब्याज पाने का हकदार रहेगा। मामले के तथ्य एवं परिस्थिति में पक्षकारान् खर्चा अपना-अपना स्वयं वहन करेंगे।”

अधिनिर्णय लिखाया जाकर आज दिनांक 15.05.2017 को सरे इजलास हस्ताक्षर कर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

गिरीश कुमार शर्मा, न्यायाधीश

नई दिल्ली, 8 सितम्बर, 2017

का.आ. 2181.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट (संदर्भ संख्या 25/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 07/09/2017 को प्राप्त हुआ था।

[सं. एल-22012/414/1994-आई. आर. (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 8th September, 2017

S.O. 2181.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 25/1995) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jaipur as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Government on 07/09/2017.

[No. L-22012/414/1994 - IR(C-II)]

RAJENDER SINGH, Section Officer

अनुबंध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं. सी.आई.टी. 25/1995

सीआईएस नंबर : 60/2014

रैफरेंस : केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-22012/414/94-आई.आर. (सी-II) दिनांक 1.6.1995

श्री पेमाराम पुत्र श्री प्रधानमल सिन्धी (मृतक)

जरिये विधिक वारीसान

1/1 चेतन लाल पुत्र स्व. पेमाराम

1/2 लक्ष्मी देवी पुत्री स्व. पेमाराम

सर्वनिवासीयान-50 जीबी नानक डी हटी,

श्री विजय नगर, जिला—श्री गंगानगर

...प्रार्थी

बनाम

क्षेत्रीय मैनेजर, भारतीय खाद्य निगम, डी-39,

सुभाष मार्ग, सी-स्कीम, जयपुर

...अप्रार्थी

पीठासीन अधिकारी: गिरीश कुमार शर्मा, आर.एच.जे.एस. उपस्थित

प्रार्थी की ओर से विद्वान प्रतिनिधि श्री आर.सी. जैन

अप्रार्थी की ओर से विद्वान प्रतिनिधि श्री सतीश चंद मित्तल।

दिनांक अवार्ड : 15.05.2017

अवार्ड

भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक एल-22012/414/94-आई.आर.(सी-II) दिनांक 1.6.1995 के स्थान पर दिनांक 24.7.2002 को अनुसूची का निम्न विवाद का रेफरेंस प्राप्त हुआ कि

“Whether the action of the management of FCI at regional office jaipur and that at its Depot sribijainagar in Terminating Sh. PEMARAM from services is legal & justified ? If not what relief the workman is Entitled to?”

प्रार्थी यूनियन की ओर से स्टेटमेंट ऑफ क्लेम पेश कर अभिकथन किया है कि प्रार्थी श्रमिक पेमाराम की नियुक्ति विपक्षी निगम के मौखिक आदेश दिनांक 10.01.1983 से विजय नगर आगार में मस्टरोल पर दैनिक वेतन भोगी श्रमिक के रूप में की गई थी। विपक्षी निगम द्वारा प्रार्थी श्रमिक को अकारण ही दिनांक 08.7.1991 को सेवा से अलग कर दिया। प्रार्थी श्रमिक द्वारा एक वर्ष की सेवा अवधि में 240 दिवस से अधिक कार्य किया है। प्रार्थी द्वारा हटाने के बाद स्वयं पुनः कार्य पर लेने बाबत प्रार्थना करने पर भी उसे काम पर नहीं लिया गया। जिसकी शिकायत केन्द्रीय सहायक श्रम आयुक्त जयपुर के समक्ष की जाने पर कोई समझौता नहीं हुआ। विपक्षी संस्थान द्वारा समझौता अधिकारी केन्द्रीय के समक्ष जवाब प्रस्तुत कर यह तर्क दिया गया कि श्रमिक की आयु 70 वर्ष से अधिक होने के कारण कार्य पर नहीं रखा जा सकता जबकि प्रार्थी की आयु मैडीकल प्रमाण पत्र के अनुसार 52 वर्ष ही थी। विपक्षी निगम द्वारा अपने चहेतों को लाभ पहुंचाने की नीयत से प्रार्थी श्रमिक को सेवा से हटा दिया गया जो कि अनफेयर लेबर प्रैक्टिस में आता है। विपक्षी द्वारा अधिनियम की धारा 25^{जी} एवं 25 एच, 25 एफ के आज्ञापक प्रावधानों का उल्लंघन किया गया है। प्रार्थी श्रमिक को कोई छंटनी मुआवजा नहीं दिया गया। प्रार्थी श्रमिक को कभी कोई नोटिस या आरोप पत्र नहीं दिया गया। प्रार्थी की सेवामुक्ति अनुचित व अवैध है। अन्त में प्रार्थी श्रमिक की सेवामुक्ति व आयु अधिक होने की कार्यवाही अनुचित एवं अवैध तथा शून्य करार दिये जाने तथा उसे पुनः पिछली पूरी वेतन सेवाओं का लाभ तथा मुकदमा खर्चा दिलाये जाने का निवेदन किया है।

विपक्षी निगम द्वारा स्टेटमेंट ऑफ क्लेम का जवाब प्रस्तुत कर अभिकथन किया कि प्रार्थी श्रमिक को अप्रार्थी निगम द्वारा नियुक्त नहीं किया गया वरन् वह मैसर्स महेन्द्र सिंह रणजोध सिंह, हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रैक्टर श्री विजय नगर द्वारा नियोजित किया गया था। प्रार्थी श्रमिक द्वारा कभी भी लगातार कार्य नहीं किया गया तथा संबंधित वर्ष में 240 दिवस से अधिक कार्य नहीं किया गया। प्रार्थी द्वारा सेवानिवृत्ति की उम्र पार कर लेने के कारण उसे समझौते के तहत निगम में लेने के लिए नियमानुसार योग्य नहीं पाया गया। प्रार्थी श्रमिक को कभी विपक्षी निगम द्वारा निगम नियुक्त नहीं किया गया तथा सेवानिवृत्ति की आयु प्राप्त होने के कारण प्रार्थी द्वारा धारा 25एफ, 25-जी, 25 एच के प्रावधान लागू करना सरासर गलत है। प्रार्थी को कभी विपक्षी निगम द्वारा नियोजित ही नहीं किया गया तो सेवामुक्ति का प्रश्न ही नहीं उठता है। प्रार्थी वर्ष 1991 में 60 वर्ष की उम्र पार कर चुका था जो दस्तावेजों से साबित है। केन्द्र सरकार में सेवानिवृत्ति की आयु 58 वर्ष है। अंत में प्रार्थी का स्टेटमेंट ऑफ क्लेम खारिज किए जाने की प्रार्थना की है। जिसका प्रार्थी ने प्रत्युत्तर देकर जवाब में मिथ्या कथन करना बताया है बल्कि दिनांक 10.01.1983 से दिनांक 08.07.1991 तक विपक्षी निगम में नियोजित होने का अभिवचन किया है।

प्रार्थी श्रमिक की ओर से अपने स्टेटमेंट ऑफ क्लेम के समर्थन में प्रार्थी साक्षी पेमाराम परीक्षित हुआ है तथा प्रलेखीय साक्ष्य में दस्तावेज प्रदर्श डब्ल्यू-1 एवं डब्ल्यू-2 प्रदर्शांकित हुए हैं। विपक्षी निगम की ओर से विपक्षी साक्षी सर्वश्री रामवीर सिंह, नरेन्द्र देव शर्मा, बलविन्द्र सिंह, केशूराम परीक्षित हुए हैं तथा प्रलेखीय साक्ष्य में दस्तावेज प्रदर्श एम-1 लगायत एम-8 प्रदर्शांकित हुए हैं।

मैंने उभय पक्ष के विद्वान प्रतिनिधिगण की बहस सुनी एवं लिखित बहस का एवं अभिलेख का परिशीलन किया।

अब सर्वप्रथम प्रार्थी साक्षी पेमाराम की साक्ष्य का परिशीलन करें तो इस गवाह ने अपनी साक्ष्य में बताया है कि उसकी नियुक्ति विपक्षी खाद्य निगम आगार श्रीविजय नगर में दैनिक मजदूरी 9/रुपये प्रतिदिन के हिसाब से दिनांक 10.01.1983 को मौखिक आदेश द्वारा की गई थी तथा वह नियुक्ति तिथि से लगातार कार्य करता आ रहा था तथा विपक्षी संस्थान ने उसको मौखिक आदेश से दिनांक 08.7.1991 को सेवा से अलग कर दिया तथा उसने सेवामुक्ति से पूर्व प्रतिवर्ष अथवा एक वर्ष की सेवा अवधि में 240 दिवस से अधिक कार्य किया है तथा उसकी सेवामुक्ति के बाद उसने व्यक्तिशः सम्पर्क कर कार्य पर लेने का निवेदन किया लेकिन कोई सुनवाई नहीं की तथा फिर उसने शिकायत श्रम आयुक्त केन्द्रीय जयपुर के समक्ष की जिसका वार्ता प्रतिवेदन दिनांक 6.7.1994 प्रदर्श डब्ल्यू-1 है तथा वह रोजाना गोदाम की सफाई करना व दवाई डालने का कार्य करता था। विपक्षी द्वारा दिनांक 28.9.1987 को प्रमाण पत्र जारी किया जो प्रदर्श डब्ल्यू-2 है तथा उसकी सेवा समाप्ति के समय उम्र 51 वर्ष की थी तथा दिनांक 8.1.1992 को उसकी मैडीकल प्रमाण पत्र में उम्र 51 वर्ष मानी जिसका प्रमाण पत्र प्रदर्श डब्ल्यू-3 व 4 है तथा उसके बाद ठेकेदार के श्रमिक हुक्मराम व सोहनलाल को रखा गया जिन्हें स्थायी कर दिया गया तथा वह विपक्षी संस्थान का श्रमिक रहा था तथा उसको सेवामुक्ति से पूर्व एक माह का नोटिस या एवज में एक माह का नोटिस वेतन या क्षतिपूर्ति मुआवजा का भुगतान नहीं किया गया है। प्रतिपरीक्षा में इस गवाह ने अभिसाक्ष्य दी है कि उसको तनखाह दफ्तर से दी जाती थी तथा ठेकेदार ने कभी पैसे नहीं दिए थे। ठेकेदार के कर्मचारियों को विपक्षी निगम में लेने का समझौता हुआ था।

अप्रार्थी साक्षी नरेन्द्र देव जो कि सहायक प्रबंधक भारतीय खाद्य निगम में है इस गवाह ने अभिसाक्ष्य दी है कि प्रार्थी कर्मकार को भारतीय खाद्य निगम द्वारा कभी नियुक्त नहीं किया गया वरन् वह मै. महेन्द्र सिंह रणजोध सिंह हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रेक्टर श्री विजय नगर के द्वारा नियोजित था तथा दिनांक 10.01.1983 से विपक्षी संस्थान द्वारा कार्य पर लगाना कतई गलत लिखा गया है तथा भारतीय खाद्य निगम द्वारा हैण्डलिंग एवं ट्रांसपोर्ट कान्ट्रेक्टर द्वारा नियोजित कर्मकारों को अपने संस्थान में रखने व स्थायी करने का फैसला एक समझौता दिनांक 12.4.1991 के अन्तर्गत हुआ था परन्तु उक्त समझौता के अनुसार प्रार्थी सेवानिवृत्त की आयु पूरी करने से वह योग्य नहीं पाया गया था। जिरह में इस गवाह ने यह स्वीकार किया है कि केजुअल लेबर की वरिष्ठता सूची उसके सहायक ने बनायी थी तथा प्रदर्श एम-4 पर ए से बी उसके हस्ताक्षर है इसमें कार्यदिवस सही है।

अप्रार्थी साक्षी रामवीर सिंह ने अभिसाक्ष्य दी है कि प्रार्थी श्रमिक को अप्रार्थी संस्थान ने नियोजित नहीं किया था तथा प्रार्थी ठेकेदार का श्रमिक था तथा प्रार्थी कर्मकार की उम्र 70 वर्ष की थी। जिरह में इस गवाह ने इस सुझाव से इंकार किया है कि प्रार्थी पेमाराम ने दिनांक 10.1.1983 से 08.07.1991 तक काम किया हो और कार्य दिवस का चार्ट प्रदर्श एम-1 से प्रदर्श एम-8 विपक्षी निगम का है।

अप्रार्थी साक्षी बलविन्दर सिंह ने अभिसाक्ष्य दी है कि वह सन् 1982 से हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर के यहां नौकरी करता है तथा पेमाराम ठेकेदार का केजुअल श्रमिक था तथा दिनांक 12.4.1991 का समझौता प्रदर्श एम-7 है तथा दिनांक 1.10.1991 को मीटिंग एफसीआई के साथ हुई जिसमें केजुअल श्रमिक को वरिष्ठता के अनुसार विपक्षी श्रमिक की सेवा में लिया था जिसकी प्रति प्रदर्श एम-8 है तथा पेमाराम ने अप्रैल 1989 में केवल 16 दिन कार्य किया था तथा पेमाराम ने निगम में सन् 1986 में सेवा में नियुक्त नहीं हुआ तथा उसे कभी सेवामुक्त नहीं किया गया था। जिरह में इस गवाह ने प्रदर्श डब्ल्यू-2 प्रमाण पत्र भारतीय खाद्य निगम के सहायक प्रबंधक द्वारा जारी होना स्वीकारा है तथा जिरह में इस गवाह ने यह स्वीकारा है कि पेमाराम हैण्डलिंग एण्ड ट्रांसपोर्ट का कार्य नहीं करता था तथा वह ठेकेदार का कर्मचारी हो ऐसा कोई प्रमाण पेश नहीं किया है।

अप्रार्थी साक्षी केशूराम ने अपनी साक्ष्य में बताया है कि वह हैण्डलिंग एण्ड ट्रांसपोर्ट ठेकेदार के यहां सन् 1980 से कार्यरत था तथा पेमाराम केजुअल श्रमिक था तथा निगम ने पेमाराम को दिसम्बर 1980 में सेवा

में नियुक्त नहीं किया था तथा माह जुलाई 1991 में सेवामुक्त नहीं किया था। जिरह में इस गवाह ने बताया है कि पेमाराम ठेकेदार का कर्मचारी हो, ऐसा कोई प्रमाण पेश नहीं किया है। उसने शपथ पत्र पढ़ा नहीं था, अफसरों ने शपथ पत्र पर हस्ताक्षर करवा लिए थे।

अब न्यायाधिकरण के समक्ष अवधारणीय बिन्दु यह है कि क्या प्रार्थी कर्मकार श्री पेमाराम विपक्षी निगम के द्वारा नियुक्त कर्मकार था या कान्ट्रेक्टर के मार्फत? इस संबंध में विपक्षी निगम के विद्वान प्रतिनिधि ने बहस की कि प्रार्थी श्रमिक ने नियुक्ति का कोई आदेश पेश नहीं किया है तथा विपक्षी संस्थान में ठेकेदार के मार्फत कर्मचारी लगाए जाते रहे हैं तथा प्रार्थी श्रमिक हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर का श्रमिक था जो दस्तावेज प्रदर्श एम-3 से प्रदर्श एम-8 से प्रकट है तथा प्रदर्श डब्ल्यू-2 से यह स्पष्ट नहीं होता कि प्रार्थी श्रमिक ने कितने दिन किसके माध्यम से कार्य किया तथा प्रार्थी श्रमिक अप्रार्थी द्वारा नियोजित नहीं किया गया था।

इसके प्रतिकार में प्रार्थी के विद्वान प्रतिनिधि ने बहस की कि प्रार्थी श्रमिक को भारतीय खाद्य निगम के गोदाम में सफाई, चौकीदारी व दवाई डालने के कार्य के लिए केजुअल लेबर के रूप में दिनांक 10.01.1983 से मौखिक आदेश से नियुक्त किया गया था तथा प्रार्थी श्रमिक हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर का कभी श्रमिक नहीं रहा था जो कि अप्रार्थी निगम के जवाब प्रदर्श डब्ल्यू-1 व प्रमाण पत्र प्रदर्श डब्ल्यू-2 से स्पष्ट है तथा हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर के दस्तावेज प्रदर्श एम-5 से प्रदर्श एम-8 से कोई श्रमिक इस कान्ट्रेक्टर का श्रमिक रहा हो ऐसा कोई उल्लेख नहीं है बल्कि माह अप्रैल 1988 में हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर को ठेका दिया गया था जबकि प्रार्थी श्रमिक तो सन् 1986 से विपक्षी निगम का दैनिक वेतन भोगी कर्मचारी था तथा विपक्षी की साक्ष्य से यह तथ्य कतई स्थापित नहीं है।

मैंने उभय पक्ष के विद्वान प्रतिनिधिगण की मौखिक व लिखित बहस पर मनन किया। एवं अभिलेख का परिशीलन किया।

अभिलेख के परिशीलन से प्रार्थी साक्षी पेमाराम की साक्ष्य का विवेचन करें तो प्रार्थी साक्षी पेमाराम ने अपनी मुख्य परीक्षा तो शपथ पत्र पर दी है उसमें साफतौर से अभिसाक्ष्य दी है कि उसकी नियुक्ति विपक्षी खाद्य निगम आगार श्री विजय नगर में दैनिक वेतन भोगी श्रमिक के रूप में मौखिक आदेश से दिनांक 10.01.1983 को की गई थी। इस गवाह की जिरह में ऐसा कोई तथ्य नहीं आया है जो उसके मुख्य कथन के विपरीत हो। इस गवाह की जिरह में इस बिन्दु पर कोई प्रतिपरीक्षण नहीं है कि उसको विपक्षी निगम द्वारा दिनांक 10.01.1983 को दैनिक वेतन भोगी के रूप में नियोजित न किया हो तथा प्रदर्श डब्ल्यू-1 व प्रदर्श डब्ल्यू-2 को भी जिरह में एसेल नहीं किया गया है तथा विपक्षी साक्षीगण नरेन्द्र देव शर्मा व रामवीर सिंह एवं बलविन्द्र सिंह एवं केशूराम की साक्ष्य से भी ऐसी कोई साक्ष्य नहीं आयी है कि सन् 1983 से 1991 में प्रार्थी श्रमिक का हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर द्वारा नियोजित किया गया हो बल्कि गवाह बलविन्द्र सिंह की साक्ष्य से यह स्पष्ट है कि मै. महेन्द्र सिंह रणजीत ठेकेदार वर्ष 1988-89 व 1989-90 व 1990-91 में कान्ट्रेक्टर थे तो फिर अप्रार्थी के दस्तावेज प्रदर्श एम-4 जो कि माह अप्रैल 1988 से मार्च 1991 तक का स्टेटमेंट उपस्थिति का है जिसमें केजुअल लेबर के रूप में क्रम संख्या 1 में प्रार्थी श्रमिक पेमाराम की उपस्थिति वर्ष 1988-91 में 700 दिवस दिखा रखी है तथा यह दस्तावेज विपक्षी निगम का है तथा जिसमें कोई कान्ट्रेक्टर का श्रमिक प्रार्थी को नहीं बताया हुआ है तथा अप्रार्थी साक्ष्य प्रार्थी के प्रार्थी के मुकाबले नहीं है तथा प्रदर्श एम-5 से प्रदर्श एम-8 में प्रार्थी श्रमिक का कोई नाम अंकित नहीं है तथा जब अप्रार्थी निगम की साक्ष्य से ही यह स्पष्ट है कि मै. हैण्डलिंग एण्ड ट्रांसपोर्ट कान्ट्रेक्टर तो माह अप्रैल 1988-1989 से विपक्षी निगम के साथ संविद की है तो फिर प्रार्थी श्रमिक तो दिनांक 10.01.1983 से विपक्षी निगम में दैनिक वेतन भोगी श्रमिक के रूप में कार्यरत हुआ है तथा विपक्षी निगम का प्रमाण पत्र प्रदर्श डब्ल्यू-2 प्रार्थी श्रमिक को दिनांक 28.9.1987 विपक्षी निगम में कार्यरत होने का तथ्य दर्शाता है जिसकी विपक्षी निगम की ओर कोई खण्डकारी साक्ष्य इस तथ्य के बारे में नहीं है तो फिर उभय पक्ष की साक्ष्य के विवेचन के फलस्वरूप न्यायाधिकरण का विनम्र मत यह है कि प्रार्थी साक्षी पेमाराम की मौखिक एवं दस्तावेजी शहादत से प्रार्थी श्रमिक दैनिक वेतन भोगी के रूप में विपक्षी निगम में कार्यरत होना स्थापित है।

अब न्यायाधिकरण को यह देखना है कि क्या प्रार्थी श्रमिक को सेवा से हटाए जाने के पूर्ववर्ती वर्ष में एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य पर संलग्न रहा है?

इस संबंध में प्रार्थी के विद्वान प्रतिनिधि ने बहस की कि प्रार्थी श्रमिक दिनांक 10.01.1983 से दिनांक 08.7.1991 तक कार्यरत रहा है तथा एक वर्ष से अधिक समयावधि में सेवा में रहने से 240 दिवस से कम कार्य किया हो, यह तथ्य स्थापित करने का भार नियोजक पर है जबकि प्रार्थी की साक्ष्य से एक वर्ष से अधिक

अवधि तक कार्य करना स्थापित है। इसके प्रतिकार में अप्रार्थी निगम के विद्वान प्रतिनिधि ने बहस की कि रेफरेंस के निबन्धन में सेवामुक्त किए जाने की तारीख माह वर्ष अंकित न होने से इस न्यायाधिकरण को सेवा पर्यवसान प्रार्थी कर्मकार द्वारा बताए जाने पर वह तिथि मानने का क्षेत्राधिकार नहीं है तथा प्रार्थी श्रमिक ने 240 दिवस से अधिक कार्य नहीं किया है।

अप्रार्थी निगम के विद्वान प्रतिनिधि ने इस तर्क के संबंध में न्यायाधिकरण का ध्यान निम्न न्यायिक विनिश्चयों की ओर आकृष्ट किया है —

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2. एम कॉनरील, उदयपुर बनाम छोटा लाल व अन्य।
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3. महावीर कंडक्टर बनाम नंदकिशोर।
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4. सुरेन्द्र नगर जिला पंचायत बनाम दहयाभाई अमर सिंह
2006 एस सी सी (एल एण्ड एस) 38
5. देहली क्लॉथ एण्ड जनरल मिल्स एण्ड कंपनी लि. बनाम स्टेट ऑफ राज., आर एल आर 1991 (1) 265
6. गवर्नमेंट ऑफ आन्ध्रप्रदेश बनाम बी. सत्यनारायण राव
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2015(4) डब्ल्यू एल सी (राज) 331
9. जी. एस. कोल डब्ल्यू डब्ल्यू यूनियन बनाम एम्पलॉयर्स मैनेजमेंट ऑफ दुग्ध वाशरी ऑफ बीसीसीएल
ए आई आर 2016 एस.सी. 4441

इसके प्रतिकार में प्रार्थी के विद्वान प्रतिनिधि ने दलील प्रस्तुत की कि कर्मकार ने एक वर्ष में 240 दिन से कम कार्य किया। यह तथ्य स्थापित करने का भार नियोजक पर है तथा प्रार्थी श्रमिक का दिनांक 08.07.1991 को सेवा से न हटाया गया हो इस तथ्य पर विवाद न होकर अप्रार्थी निगम का यह अभिवचन व साक्ष्य है कि वर्ष 1991 में कर्मकार की उम्र सेवानिवृत्ति की हो चुकी थी, के निबन्धन में सेवा पर्यवसान की तिथि अंकित भी न हो तो कोई फर्क नहीं पड़ता है बल्कि विपक्षी निगम ने रेफरेंस की वैधता को चुनौती दी थी जिसको माननीय राजस्थान उच्च न्यायालय ने आदेश एस.बी. सिविल रिट पिटीसन नंबर 6550/2003 दिनांक 24.5.2005 से खारिज हो गई है तथा प्रार्थी के विद्वान प्रतिनिधि ने न्यायाधिकरण का ध्यान निम्न न्यायिक विनिश्चयों की ओर आकृष्ट किया है —

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2. 1998 डब्ल्यू एल सी (यू सी) 178
3. 2000 (87) एफ एल आर 228 बम्बई
4. 2003(1) डब्ल्यू एल सी 47
5. हरिनंदन प्रसाद व अन्य बनाम एम्पलॉयर आई/आर मैनेजमेंट ऑफ एफसीआई व अन्य।
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6. पी वी के डिस्टिलरी लि. बनाम महेन्द राम ए आई आर 2009 एस सी 2205
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8. स्टेट ऑफ राजस्थान व अन्य बनाम श्रीमति गीता बाई व अन्य

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9. हिन्दुस्तान मशीन टूल्स लि. अजमेर बनाम इन्डस्ट्रियल ट्रिब्यूनल जयपुर व अन्य।
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10. मै. डीसीएम श्रीराम कंसोलिटेड लि. बनाम स्टेट व अन्य। 2010(4) डब्ल्यू एल सी 660

मैंने उभय पक्ष के विद्वान प्रतिनिधिगण की बहस पर मनन किया एवं उपरोक्त न्यायिक विनिश्चयों का सम्मानपूर्वक परिशीलन किया।

अभिलेख के परिशीलन से प्रार्थी एवं अप्रार्थी निगम की साक्ष्य से यह स्पष्ट है कि दिनांक 10.01.1983 से दिनांक 08.07.1991 तक प्रार्थी श्रमिक का कार्य पर संलग्न होना आया है तथा प्रार्थी श्रमिक दिनांक 10.01.1983 से व वर्ष 1987 के प्रमाण पत्र प्रदर्श डब्ल्यू-2 से दैनिक वेतन भोगी के रूप में कार्य करना प्रत्यक्ष रूप से प्रकट है तथा प्रमाण पत्र जारी करने वाले सहायक आगार प्रबंधक को साक्ष्य पेश करके प्रदर्श डब्ल्यू-2 का कोई खण्डन भी विपक्षी की ओर से नहीं है तथा विपक्षी के ही दस्तावेज प्रदर्श एम-4 में माह अप्रैल 1988 से मार्च 1991 तक 700 दिवस तो कार्य करना स्पष्ट है तो फिर प्रार्थी निरन्तर सन् 1983 से 1991 तक कार्य किया तो कलेण्डर वर्ष 12 माह में 240 दिवस से कम कार्य किया हो यह साबित करने का भार जब प्रार्थी श्रमिक ने अपनी मौखिक साक्ष्य एवं दस्तावेज विपक्षी निगम का प्रमाण पत्र प्रदर्श डब्ल्यू-2 से प्रारम्भिक भार का निष्पादन करने के पश्चात् विपक्षी निगम ने कोई प्रार्थी साक्ष्य का खण्डन नहीं किया है कि प्रार्थी श्रमिक ने 240 दिवस से कम कार्य किया हो बल्कि अप्रार्थी के दस्तावेज प्रदर्श एम-4 से भी वर्ष अप्रैल 1988 से मार्च 1991 तक 700 दिवस कार्य करना तो प्रकट स्थिति है तथा जहां तक अप्रार्थी के विद्वान प्रतिनिधि की यह दलील रही है कि रेफरेंस निबन्धन में छंटनी की तिथि का अंकन नहीं है इसलिए रेफरेंस विधि विरुद्ध होने से न्यायाधिकरण को क्षेत्राधिकार नहीं है। इस तर्क के संबंध में अप्रार्थी की ओर से प्रस्तुत न्यायिक विनिश्चय 2003 डब्ल्यू एल सी (राज) यू सी 127 व 2003 डब्ल्यू एल सी राज. यू सी 424 की ओर न्यायाधिकरण का ध्यान आकृष्ट किया है जबकि प्रार्थी के विद्वान प्रतिनिधि ने बहस की कि जब श्रमिक वर्ष 1988 से 1991 कलेण्डर वर्ष में एक वर्ष से अधिक लगातार 240 दिवस से अधिक सेवा कर ली है तो फिर दिनांक 08.07.1991 को सेवा से पर्यवसान का कोई विवाद या आपत्ति विपक्षी निगम द्वारा नहीं उठायी गयी है बल्कि यह अभिवाक् आया है कि अप्रार्थी निगम की प्रार्थी ने स्वयं काम पर आना बंद कर दिया तो फिर इस तिथि पर कोई विवाद नहीं है। इस तर्क के समर्थन में प्रार्थी के विद्वान प्रतिनिधि ने न्यायाधिकरण का ध्यान न्यायिक विनिश्चय राजस्थान राज्य व अन्य बनाम श्रीमति गीता बाई व अन्य 2007(5) डब्ल्यू एल सी राज. 466 की ओर न्यायाधिकरण का ध्यान आकृष्ट किया है।

उभय पक्ष के विद्वान प्रतिनिधि के तर्कों पर गंभीरता से मनन किया एवं उपरोक्त न्यायिक विनिश्चयों का सम्मानपूर्वक परिशीलन किया।

अभिलेख के परिशीलन से प्रार्थी एवं अप्रार्थी की साक्ष्य से श्रमिक का कार्य विपक्षी निगम में दिनांक 10.01.1983 से दिनांक 08.07.1991 तक करने के बारे में अभिकथन है लेकिन लगातार कार्य नहीं करना बताया है तथा प्रार्थी के स्टेटमेंट ऑफ क्लेम में दिनांक 08.07.1991 को कार्य से हटाने का अभिवचन है जिसका विपक्षी निगम के जवाब में इस तिथि से विनिर्दिष्ट रूप से इंकारी नहीं है तथा जब रेफरेंस को माननीय उच्च न्यायालय में अप्रार्थी ने चेलेन्ज रिट पिटीसन में किया तो इस बिन्दु को चेलेन्ज नहीं किया था तथा हस्तगत मामले में 240 दिवस से अधिक कार्य श्रमिक द्वारा किया जाना स्थापित है तो फिर पर्यवसान की तिथि का सारवान विवाद पक्षकारान में न होने से एवं रेफरेंस में सेवापर्यवसान की न्यायोचितता का प्रश्न अन्तर्वर्तित होने से एवं अप्रार्थी की ओर से प्रस्तुत न्यायिक विनिश्चयों के मामले के तथ्य पर्यवसान की तिथि का 240 दिवस की तिथि से गणना के दृष्टिकोण से विवाद अन्तर्गत होने से जबकि राजस्थान राज्य व अन्य बनाम श्रीमति गीता बाई व अन्य 2007(5) डब्ल्यू एल सी 466 में माननीय उच्च न्यायालय द्वारा पैरा 17 व 18 में प्रतिपादित सिद्धांत की रोशनी में हस्तगत मामले में सेवा पर्यवसान की तिथि सारवान विवाद पक्षकारान के मध्य न होकर अनुषंगी विषय होने से रेफरेंस अवैध हो ऐसा माने जाने के लिए कोई आधारभूत स्थिति न होने से अप्रार्थी के विद्वान प्रतिनिधि की इस दलील में कोई सार नजर नहीं आता है तथा अप्रार्थी निगम की सेवा में प्रार्थी सेवानिवृत्ति की उम्र का होने से कार्य छोड़ा हो ऐसी अप्रार्थी की कोई विधिजन्य साक्ष्य न होने से अप्रार्थी निगम द्वारा प्रार्थी जो कि केजुअल श्रमिक दैनिक वेतन भोगी था उसका दिनांक 08.07.1991 को सेवा पर्यवसान किया जाना न्यायोचित प्रतीत नहीं होता है बल्कि औद्योगिक विवाद अधिनियम की धारा 25 एफ की

पालना विपक्षी निगम द्वारा नहीं किए जाने से प्रार्थी श्रमिक किसी नियमित पद के विरुद्ध पदस्थापित न होने से एवं नियमितीकरण का कोई मामला प्रार्थी का न होने से प्रार्थी श्रमिक दैनिक वेतन भोगी के रूप में दिनांक 10.01.1983 से दिनांक 08.07.1991 तक करीब 8 वर्ष 6 माह तक कार्य करने से विपक्षी निगम का कर्मकार औद्योगिक विवाद अधिनियम 1947 की धारा 25 एफ का विपक्षी निगम द्वारा अतिलंघन करने से उभय पक्ष की ओर से प्रस्तुत न्यायिक विनिश्चयों की रोशनी में प्रार्थी कर्मकार वर्ष 2000 में मृत्यु होने से पुनःस्थापना का समायावधि काफी व्यपगत होने के पश्चात् श्रमिक द्वारा विवाद उठाने से मामले के तथ्य एवं परिस्थिति में प्रार्थी श्रमिक को दो लाख रुपये क्षतिपूर्ति के बतौर अवैध छंटनी के कारण दिलाया जाना न्यायोचित प्रतीत होता है। अतः उपरोक्त विवेचन के फलस्वरूप प्रार्थी श्रमिक का विपक्षी निगम द्वारा सेवा पर्यवसान किया जाना विधिसम्मत एवं न्यायोचित नहीं होना पाया जाता है। चूँकि प्रार्थी श्रमिक श्री पेमाराम की मृत्यु हो चुकी है एवं उसके विधिक वारीसान को न्यायालय के आदेश दिनांक 15.06.2009 द्वारा रिकार्ड पर लिया जा चुका है। ऐसी स्थिति में प्रार्थी श्रमिक के पुनः नियोजन में लेने का प्रश्न ही नहीं उठता है। ऐसी स्थिति में प्रार्थी श्रमिक के विधिक वारीसान को विपक्षी निगम से प्रार्थी की सेवा से छंटनी अविधिसम्मत होने से बतौर प्रतिकर दो लाख रुपये दिलाया जाना न्यायोचित है।

अतः उपरोक्त विवेचन के फलस्वरूप इस रेफरेंस का उत्तर उपरोक्तानुसार देते हुए निम्न अधिनिर्णय पारित किया जाना समीचीन प्रतीत होता है —

अधिनिर्णय

अतः “विपक्षी भारतीय खाद्य निगम क्षेत्रीय कार्यालय जयपुर के आगार श्री विजय नगर द्वारा प्रार्थी श्रमिक पेमाराम का सेवा पर्यवसान किया जाना विधिसम्मत एवं न्यायोचित नहीं है तथा प्रार्थी कर्मकार श्री पेमाराम के विधिक वारीसान विपक्षी निगम से बतौर छंटनी प्रतिकर के दो लाख रुपये पाने का मुश्तहक है जो विपक्षी निगम अधिनिर्णय की तिथि से 6 माह में प्रार्थी कर्मकार श्री पेमाराम के विधिक वारीसान को संदाय करें अन्यथा प्रार्थी श्रमिक उक्त अवार्ड की तिथि से 6 प्रतिशत वार्षिक दर से ब्याज पाने का हकदार रहेगा। मामले के तथ्य एवं परिस्थिति में पक्षकारान् खर्चा अपना अपना स्वयं वहन करेंगे।”

अधिनिर्णय लिखाया जाकर आज दिनांक 15.05.2017 को सरे इजलास हस्ताक्षर कर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

गिरीश कुमार शर्मा, न्यायाधीश

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2182.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 19/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-41011/40/92-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2182.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2004) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court* Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 11.09.2017.

[No. L-41011/40/92- IR(B-1)]

B. S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AHMEDABAD

Present : Pramod Kumar Chaturvedi, Presiding Officer,
CGIT-cum-Labour Court, Ahmedabad,
Dated 28th July, 2017

Reference: (CGITA) No- 19/2004

1. The General Manager,
Western Railway,
Churchgate, Mumbai – 400001
 2. The Divisional Railway Manager,
Western Railway,
Kothi Compound, Rajkot – 360001
 3. The Divisional Mechanical Engineer (Loco),
Western Railway, Kothi Compound,
Rajkot – 360001
- ...First Party

V/s.

The Jt. Divisional Secretary,
Paschim Railway Karmachari Parishad,
209-E, Sarvottamnagar, Nr. New Railway Colony,
Sabarmati, Ahmedabad

...Second Party

For the First Party : Shri Janak R. Pandya
For the Second Party : Shri R.S. Sisodia (Union Representative)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/40/92-IR(DU) dated 07.12.1997 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

“Whether the action of DRM, Western Railway, Rajkot and other officers, not adhering to the promotion policy formulated by Rly. Board vide letter dated 03.11.1987 and contravening the same by promoting the fireman, Diesel Asstt./Electric Assistant to the post of Steam Shunter in the ratio 110:9 against 79:40 and averaged workman, is justified, legal and proper? If not, to what relief the affected workman is entitled to and what directions are necessary in the matter?”

1. The reference dates back to 07.12.1997. The second party submitted the statement of claim Ex. 6 on 20.01.1994 along with number of documents and the first party submitted the written statement Ex. 12 on 20.06.1995 but now the second party union Jt. Divisional Secretary, Paschim Railway Karmachari Parishad through its Office Bearer Shri R.S. Sisodia stated that the Paschim Railway Karmachari Parishad does not want to prosecute the case.
2. Thus the reference is finally disposed of as not pressed.

P.K. CHATURVEDI, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2183.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सतपुरा क्षेत्रीय ग्रामीण बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ संख्या (45/2006, 43/2004, 44/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12025/3/2006—आई आर (बी-I),
सं. एल-12025/289/2003—आई आर (बी-I),
सं. एल-12025/293/2003—आई आर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2183.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 45/2006, 43/2004, 44/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Satpura Kshetriya Gramin Bank and their workmen, received by the Central Government on 11.09.2017.

[No. L-12025/3/2006- IR(B-1),
No. L-12012/289/2003-IR(B-1),
No. L-12012/293/2003-IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/45/2006

Shri Ashish Kumar Kachwaha,
C/o General Secretary, MBKGB Karamchari Union,
Motinagar, Ward No. 24, Balaghat

...Workman

Versus

The Chairman,
Satpura Kshetriya Gramin Bank,
South Civil Lines, Chhindwara

...Management

No. CGIT/LC/R/43/2004

Shri Ashish Kumar Kachwaha,
C/o General Secretary, MBKGB Karamchari Union,
Motinagar, Ward No.24, Balaghat

...Workman

Versus

The Chairman,
Satpura Kshetriya Gramin Bank,
South Civil Lines, Chhindwara

...Management

NO. CGIT/LC/R/44/2004

Shri Ashish Kumar Kachwaha,
C/o General Secretary, MBKGB Karamchari Union,
Motinagar, Ward No. 24, Balaghat

... Workman

Versus

The Chairman,
Satpura Kshetriya Gramin Bank,
South Civil Lines, Chhindwara

...Management

AWARD

Passed on this 11th day of August, 2017

1. (a) As per letter dated 18-8-2006 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12025/3/2006-IR(B-I). The dispute under reference relates to:

“ Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank in terminating the services of Shri Ashish Kumar Kachwaha, Shri Jethu Singh Kulasthe, Shri Lakhna Lal Jharia & Shri Dhruv Kumar Nanda is legal and justified? If not, what relief the workman is entitled to?”
- (b) As per letter dated 5-4-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/289/2003-IR(B-I). The dispute under reference relates to:

“ Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank in not regularising Shri Dhruv Kumar Nanda is legal and justified? If not, what relief the workman is entitled to?”

(c) As per letter dated 5-4-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/293/2003-IR(B-I). The dispute under reference relates to:

“ Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank in not regularising Shri Jethu Singh Kulasthe is legal and justified? If not, what relief the workman is entitled to?”

2. Though evidence is recorded separately, R/43/04 & 44/04 are connected with claim Case No. R/45/06 and therefore it is appropriate to decide all those reference by common award.
3. In R/45/06, after receiving reference, notices were issued to the parties. Workman Shri Ashish Kumar Kachwaha, Shri Jethu Singh Kulasthe, Shri Lakhna Lal Jharia & Shri Dhruv Kumar Nanda submitted statement of claim jointly at Page 3/1 to 3/3. Case of Ist party workman is that name of 2nd party Bank was changed on 1-6-06 as Satpura Kshetriya Gramin Bank amended in order of reference has been carried out. That Ist party workmen claims that they were working between 10-8 years in 2nd party Bank. Their services were not regularized, they were members of the Union. Conciliation proceedings were submitted before ALC, Shahdol. During pendency of conciliation proceeding, their services were terminated without notice. The dispute was raised before competent authority in Writ Petition No. 2067/04 was filed by them. Hon'ble High Court vide directions issued on 1-2-05 directed management of 2nd party to decide the claim for regularization within 9 months.
4. Ist party workman further reiterates that their services were terminated on 25-11-03. After the dispute was raised before ALC, the conciliation proceedings failed and dispute has been referred. After termination of their services, all the workman claimants are unemployed, their family members and old parents are dependent on them. That after termination of their services, relatives of the employees in the Bank are working in the Bank. Workmen were not paid retrenchment compensation but amount of PF was not paid to them. Termination of their services is in violation of Section 25-F,H,N, Section 33 of ID Act. On such ground, workman prays for their reinstatement with consequential benefits.
5. The detailed statement of claim is also filed at Page 6/1 to 6/4 by workman reiterating above contentions that workman Ashish Kachwaha was engaged in Bank on 28-6-95 at Head office of the Bank at Balaghat. Workman No.2 Jethu singh was engaged in the Bank at Shahpura branch on 14-4-90. Claimant No.3 Lakhnanlal was engaged on 15-7-85 at Bakori branch. Claimant No.4 Dhruv Kumar Nanda was engaged on 16-6-97. That they had rendered continuous service morning to evening as messenger cum peon. That in the year 2004, 2nd party Bank was having 57 branches over districts Dindori, Balaghat in MP. Only 6 permanent messengers cum peon were working in the Bank, rest of the work were managed through daily rated workers like claimant. Bank has not regularized their services. Management thereby committed unfair labour practice. After the workman raised industrial dispute for regularization, Bank with ulterior motive terminated their services of all workmen on 25-11-03 without notice. Retrenchment compensation was not paid. Bank violated Section 25-F, 33 of ID Act. Bank had also not followed circular dated 8-10-84 issued by department of Finance and letter issued by NABARD dated 10-10-84. The recommendations of Gupta Award and award passed by NIT were not followed by the Bank. On such ground, workman prays for their reinstatement with consequential benefits.
6. In R/45/06, Written Statement is filed at Page 13/1 to 5 opposing claim of workman. Preliminary objection is raised that the statements of claimant is not tenable as monetary requirements of Rule 4(c) ID Act not followed. That there is no employer employee relationship. Provisions of ID Act are not applicable. Management denied engagement of workman against sanctioned post of messenger cum peon on daily wages. Management denied engagement of claimant No.1 on 25-6-95, claimant No.2 on 14-4-90, claimant No.3 on 15-7-85, claimant No.4 on 16-6-97. 2nd party denied that claimants rendered services morning to evening. It is denied that workmen were not assigned duty claimed by them of regular messenger/ peon. That it is denied that Bank had managed the work of messenger cum peon by daily rated workman like claimants. The work was not of permanent nature. The claimants were not appointed. There was no question of their regularization in service. The demand of claimants for regularization is preavalous. That management terminated their services on 27-11-03. There was no question of terminating services of workman with ulterior motive. 2nd party denies that claimants have worked more than 240 days during any of the year. It is denied that there was no question of payment of retrenchment compensation as workmen were not appointed by the Bank. 2nd party denies that claimants were assigned work of collecting stamps, cheques, documents within the inter branch dealings of the Banks. It is contented that management deliberately not provided appointment orders is false. There cannot be any appointment order without statutory appointment. There was no master servant relationship between parties. It is denied that job of messenger cum farrash is of perennial nature. That circular dated 8-10-84 of Finance Department Circular IDD(RRB)CC dated 7-5-87 is not applicable to the

claimants. The recommendations proposed by Gupta Committee are also not applicable to the claimants. That daily wager is engaged for specific work as per quantum of work. Wages are paid to such casual and temporary persons. there is no continuity of service. Such person cannot claim regularization. He has no right for claiming regularization, there is no sanctioned post. On such contentions, 2nd party prays for rejection of claim.

7. That Ist party submitted rejoinder at Page 14/1 to 14/2 reiterating their contentions in statement of claim.
8. In R/43/04 in his statement of claim, Dhruv Kumar Nanda has pleaded that 2nd party Bank established on 14-11-82 in District Mandla and Balaghat. Bank had 31 branches in Mandla district, 26 in Balaghat district, dindori district was also included. Bank had total 57 branches. 167 employees were working including officers, clerks, typist etc. only 6 messengers cum peon were working in the Bank. Work of peon cum messengers was extracted from daily wagers like claimants. That workman was working continuously from 1997 to 24-11-03. His services were not regularized. The service of workman as terminated on 25-11-03. The Bank had failed to comply circular dated 8-10-84, award of NIT, recommendations of Gupta committee. Workman claims regularization on post of messenger cum peon.
9. In R/43/04, management filed Written Statement at Page 7/1 to 7/3 denying employer employee relationship. It was denied that workman was engaged on daily wages , master servant relationship was denied, ID Act is not applicable. It is denied that workman was discriminated or his services were terminated in violation of Section 22,33 of ID Act. It is denied that services of workman were terminated during pendency of reference.
10. In R/44/04, in statement of claim, workman has pleaded identical contentions that he was continuously working from 14-4-90 to 24-11-03. His services were not regularized. Claimant was offered services on temporary/ daily wage basis. He had continuously worked till 24-11-03. He rendered more than 240 days continuous service during each of the year. Bank had not followed circular dated 8-10-84, recommendations of Gupta Committee and circular dated 20-3-93 of NABARD. Workman claimed regularization in service.
11. In R/44/04, management filed Written Statement denying employer employee relationship. It was denied that workman was engaged on daily wages , master servant relationship was denied, ID Act is not applicable. It is denied that workman was discriminated or his services were terminated in violation of Section 22,33 of ID Act. It is denied that services of workman were terminated during pendency of reference.
12. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

In Case No.R/45/06-

(i) Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank in terminating the services of Shri Ashish Kumar Kachwaha, Shri Jethu Singh Kulasthe, Shri Lakhan Lal Jharia & Shri Dhruv Kumar Nanda is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order

In Case No.R/43/04-

(i) Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank in not regularising Shri Dhruv Kumar Nanda is legal and justified?	As services of workman are terminated, claim for regularization is not tenable.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

In Case No.R/44/04-

(i) Whether the action of the management of the Chairman, Satpura Kshetriya Gramin Bank in not regularising Shri Jethu Singh Kulasthe is legal and justified?	As services of workman are terminated, claim for regularization is not tenable.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

13. The term of reference pertains to legality of termination of services of claimants Shri Ashish Kumar Kachwaha, Shri Jethu Singh Kulasthe, Shri Lakhan Lal Jharia & Shri Dhruv Kumar Nanda. All the claimants filed their identical affidavit of evidence. Shri Dhruv Kumar in his affidavit has stated that he was engaged on daily wages messenger on 5-5-96, his services were terminated on 25-11-03. He was regularly working for 7 years. He had paid Union contribution. Letter dated 24-11-03 was issued by management. that his services was regularized, his services were terminated on 25-11-03 without notice. Retrenchment compensation was not paid to him. During 5-5-96 to 25-11-03, he had rendered more than 240 days continuous service. He was paid salary, arrears of bonus. He was doing various kinds of work, handling work of inward, outward and handling of record. Union had given letter dated 21-6-97 for regularization of daily wage employees. 12 % amount of PF was deducted from his salary from 1-10-99. That fresh recruitment process was started by the Bank for messengers. His services were terminated without notice. Retrenchment compensation was not paid to him.
14. Shri Ashish Kumar Kachwaha also filed identical affidavit claiming that he was working in the Bank from 28-6-95 till 25-11-03. He was regularly working for 8 ½ years. His services were terminated on 25-11-2003. He worked more than 240 days during each of the year. Jethu Singh filed affidavit of his evidence that he was orally engaged on 14-4-90 as daily wage messenger cum peon. He was continuously working till 25-11-03. Amount of PF was deducted. He was doing various kinds of work.
15. Lakhanlal in his affidavit of evidence has stated that he was working in the Bank from 20-7-85. He was continuously working for 18 years till 25-11-03, his services were terminated on 25-11-03. He was initially paid Rs.5/- per day. He was interviewed on 30-4-88. All the claimants have stated in their affidavit that they are unemployed after termination of their services. He says that from 1-10-99, 12 % PF was deducted from his salary. As per head office circular dated 17-7-01, PF Account was opened in his name. Loan for purchasing bicycle was sanctioned by management on 15-12-86. As per circular dated 3-3-11, management has started fresh recruitment.
16. Shri Dhruv Kumar Nanda in his cross examination says post was not advertised at the time of his engagement. The notice was displayed on notice board, his written test was not taken. His name was enrolled in Employment Exchange. Registration card of Employment Exchange is not produced. He not received appointment letter. The appointment letter was issued by the Bank but it was with the Branch Manager. He was doing work of cleaning, sweeping distribution of dak. Sweeper was not appointed in the branch. He denies that he was engaged as per need of work. His wages were paid at end of month. His attendance was maintained. He has not produced attendance register in the case as register is in custody of the Bank. That he had not given application for production of attendance register. It is brought to my notice that application for production of document was filed. They received wages for his actual working days, the intimation about termination of his service was given to him by Branch Manager, order in writing was not given to him.
17. Shri Ashish Kachwaha in his cross examination says that he has also raised dispute for regularization. 2nd party has appointed him, his name was enrolled in Employment Exchange office. Document is not produced as same is not required. He was engaged as daily wage messenger, written test was not conducted, his oral interview was taken. He was appointed as messenger. He denies that there is no post of messenger. Before termination of his service, meeting of the management was held. In said meeting, it was decided the employees who raise dispute be terminated from service, its intimation was given to him by Branch Manager. He was appointed by Branch Manager. He denies that Branch Manager has no authority to appoint him. Appointment letter is not produced. He was continuously working, copy of attendance register is not produced.
18. In his cross examination, Jethu Singh says appointment letter was not given to him. He was appointed as peon on daily wages. He denies that he was engaged only for 1-2 hours. After his interview, head office had issued appointment letter. He was working as messenger cum peon. Branch Manager had send information about him to head office thereafter he was interviewed. Presently he is working in the agricultural lands. He received wages for his actual working days.
19. Shri Lakhanlal in his cross examination says he produced letter for interview dated 30-4-88. Appointment letter was not given to him. Management has no enmity with him. He was paid wages for his working days deducting 12 % PF contribution. He denies that he not worked more than 240 days during any year. Work of messenger is distributing dak from one place to another.
20. Affidavit of evidence of management's witness Vimal Kumar Jain is that all 4 claimants were not engaged calling their names through Employment Exchange or publishing advertisements engagement of claimants was a stop gap arrangement of casual nature. Claimants were not engaged against sanctioned vacant post. Their engagement was intermittent. Claimants had not worked more than 240 days during any calendar year. There was no need to issue notice or payment of compensation to the claimants. Master servant relationship

was not existing. Management's witness in his cross says he was appointed on 5-10-84. Since 2014, he is working in personal department. Personally he not acquainted with claimants. During 2001-02, he was posted at Mandla branch. He had seen documents w.r.t. claimant Dhruv Kumar at Ghugri branch. He was not working as regular employee. during 96 to 2003, Dhruv Kumar was working at Ghugri branch but witness of management was unable to tell his working days. That he was not posted at Shahpura branch. Claimant Jeetu singh was working in Shahpura branch from 14-4-90 to 25-11-03 but he was not continuously working. He was not posted at Bakori branch. Claimant Lakhan worked from 1991 to 2003 but he was not continuously working. Witness denied that all the claimants were stopped from working on 25-11-03. He explained that claimants did not attend work. Notice was not issued by management to claimants. Claimants were not served with notice, retrenchment compensation was not paid to him. The claimants had raised dispute for regularization before ALC. Witness of management denies that during pendency of proceeding before ALc, their services were terminated. In his further cross, management's witness denies that all the claimants have worked more than 240 days during calendar year. He claims ignorance about deduction of PF contribution of Ashish Kushwah from 2001 to 25-11-03. He denies that Ashish Kushwah was paid TA DA bonus cycle allowance and EPF contribution. Witness of management claims ignorance that appointment letter was given to Ashish Kushwah, Dhruv Kumar. Management's witness denied that all claimants completed more than 240 days continuous service before their termination on 25-11-03. That entries of payments made to the claimants are recorded in cash book. their names are not recorded about payment. That information about deduction of PF of claimants may be available in PF office. Record of EPF is also maintained by the Bank. He had seen that record but it is not produced. Witness says record is not maintained beyond 60 days. Management's witness claims ignorance that claimants Ashish Kumar worked for continuous 8 years, Dhruv Kumar for 7 years, Jethu for 13 years, Lakhan for 12 years on daily wages. That during 1990 to 03, post of messenger was not vacant. Witness was unable to tell sanctioned post in the Bank. Evidence about working of all claimants is not shattered in their cross examination. From evidence of claimants Dhruv Kumar, documents Exhibit W-28,29, from evidence of Ashish Kachwaha documents Exhibit W-1 to 12, from evidence of Jethu documents Exhibit W-13 to 21, from evidence of Lakhanlal documents Exhibit W-22 to 27 are admitted. Exhibit W-22 relates to payment of daily wages Rs.162. Exhibit W-23 pertains to total 9 articles of stationary in name of Lakhan. Exhibit W-24 EPF receipt for the year 2006-07 in name of Lakhan lal. Exhibit W-25 pertains to taking statement by Lakhanlal, W-26 pertains to part time service of Lakhan dated 30-4-88. W-7 pertains to payment of wages to Lakhan in 1991. W-28 pertains to payment of wages to Lakhan Exhibit W-1 is letter dated 24-11-03 issued by Branch Manager prohibiting to terminate services of claimants as they had filed proceedings against management. Exhibit W-2 is letter dated 21-6-97 given by President of Union for regularization of daily wage employees, W-3 is letter given by General Manager dated 30-9-99 for deduction of PF of daily wage employees. W-4 is letter issued by Chairman of Bank regarding deduction of PF of daily wage employee Ashish Kushwah. W-5 pertains to deductin of PF of Ashish Kushwah., Exhibit W-6 is letter given by APO dated 10-6-11 that amount of Rs.13712 was deposited in GPF account of Ashish Kushwah. W-7 is order passed under RTI in appeal. Exhibit W-8 pertains to information under RTI. W-9 pertains to information about recruitment process for post of messenger was started in the year 2011. Exhibit W-13 are copies of 15 payment vouchers to farrash without mentioning the name. W-17 is letter dated 8-8-03 relating to information under RTI Act about working of Jethu singh and others. W-19 pertains to delivering of stationary articles in Shahpura branch by Jethu Singh. Exhibit W-28 is letter under RTI Act regarding contribution of PF of Dhruv Kumar – amount deposited in his account are shown. In Exhibit W-29, letter under RTI Act amount deposited in PF Account of Dhruv Kumar are shown. Management has not produced any documents about working days or payments made to the workman. Evidence of all the claimants about their working on daily wages is corroborated by documents produced on record. Management has withheld the documents about working and payments made to the claimants. Though Ist party has alleged violation of circular of 1984, recommendations of committee, documents in that regard are not produced. Management's witness has not produced documents about sanctioned post of all branches. Workmen are engaged on daily wages for years together amounts to unfair labour practice under Item 10, Schedule V of ID Act.

21. In written note of argument submitted by management, general submissions are made that appointment not made as per the recruitment rules. The daily wagers are not entitled for regularization. Claimants were not appointed following recruitment rules, they had not completed 240 days continuous service, provisions of ID Act are not applicable. Argument of management cannot be accepted as evidence of claimants corroborated by documents establish that Ist party claimants were engaged for years together on daily wages.
22. Learned counsel for Ist party Shri A.K.Shashi relies on ratio held in case between-

Maharashtra State Board of Secondary and Higher Secondary Education, Amravasti and another versus Sanjay Krishnarao Shrugare, Amrati reported in 2008-II-CLR-301. Their Lordship dealing with complaints under Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 held that best possible evidence with the appellant on the point of total service put in by the respondents not brought on record by the appellant. Appellant has to blame itself for this failure on its part.

In present case management has not produced any documents about working days, attendance and payments made to workman.

In case between Jasmer Singh versus State of Haryana and another reported in 2015(4)MPLJ-5. Their Lordship held termination of daily rated workman who worked more than 240 days in a calendar year without complying Section 25-F,G and H of ID Act is void ab initio. Reinstatement with continuity of service with full backwages was upheld.

In case between Amarkant Rai versus State of Bihar and others reported in 2015(146)-FLR-75. Their lordship dealing with the claim for regularization held appointment has been lacking any qualification nor bears any blemish on record during his employment for over two decades and services of similarly situated persons on daily wages would be regularized. Appellant initially working against unsanctioned post, he was working continuously since 3-1-02 against sanctioned post. He was working continuously since 3-1-02 against sanctioned post. Their Lordship directed authorities to regularize the services of appellant w.e.f. 3-1-02.

In case between Tapash Kumar Paul versus BSNL reported in 2014-AIR-SCW5816. Their Lordship allowed reinstatement instead of compensation awarded by Division bench. Their Lordship laid down criteria when compensation is to be awarded, whether industry is closed, whether employee is superannuated or going to retire shortly etc.

In case between Raj Kumar versus Director of Education and others reported in 2016(6)SCC-541. Their Lordship held Section 25-F-a,b,c is mandatory. That termination of services of driver of private school without obtaining prior approval of Director of Education was bad in law.

Counsel for management not submitted any citation in support of his argument. Evidence on record is cogent and clear that all workmen had completed more than 240 days continuous service before their services were terminated on 25-11-03, their services were terminated without notice. Retrenchment compensation was not paid to him. Therefore termination of services of Ist party claimant is illegal. Accordingly I record my finding in Point No.1.

23. Point No.2- From evidence on record, termination of services of claimant is in violation of Section 25-F of ID Act as per ratio held in above cited cases, when termination of services without notice or without complying Section 25-F is void. Claimants are entitled for reinstatement. The services of claimants were terminated on 25-11-03. Claimants in their evidence stated that they are unemployed. However nothing is explained from their evidence how they are surviving all these years. Only Shri Jethu Singh stated that he was doing agricultural work. Considering the facts and circumstances and evidence on record, workman deserves to be allowed reinstatement with continuity of service with 50 % back wages. Accordingly I record my finding in Point No.2.
24. In the result, award is passed as under:-
 - (1) In R/45/06, action of the Chairman, Satpura Kshetriya Gramin Bank in terminating the services of Shri Ashish Kumar Kachwaha, Shri Jethu Singh Kulasthe, Shri Lakhan Lal Jharia & Shri Dhruv Kumar Nanda is illegal.
 - (2) Management is directed to reinstate all claimants with continuity of service with 50 % backwages.
 - (3) Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.
 - (4) In R/43/04 & 44/04, no relief is granted to the claimants.
25. Copy of Award be kept in record of Case No. R/43/04 & 44/04.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

काआ. 2184.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंदौर के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 7/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12012/72/2009—आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2184.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.7/2014) of the *Cent.Govt. Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 11.09.2017.

[No. L-12012/72/2009- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/7/2014

Shri Bhavsingh,
S/o Shri Mukamsingh Chouhan,
R/o Patel Phalia, Jobatt,
Distt. Jhabua (MP)

... Workman

Versus

Branch Manager,
State Bank of Indore,
Jobat Branch, Jhabua (MP)

...Management

AWARD

Passed on this 21st day of July 2017

1. As per letter dated 21-7-17 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/72/2009-IR(B-I). The dispute under reference relates to:
 “Whether the action of the management of the then State Bank of Indore, Jobat branch, now State Bank of India, Jobat Branch in terminating the services of Shri Bhav Singh, S/o Shri Mukam Singh Chouhan w.e.f. 12-1-2007 is legal and justified? To what relief the workman is entitled?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of workman is that he was engaged as peon in Jobat branch of the Bank in the year 2003. He was required to work from 8 AM to 8 PM. He was doing cleaning, sweeping, dusting work, supplying drinking water, distribution of dak. That he was continuously working from 2003 to 12-11-07. He was working all 7 days in a week. However he was paid salary deducting wages for holidays and Sunday. The payment was made to him under yellow vouchers obtaining his signatures. The record is available in the bank. Branch Manager Bharat was making payment to him on reimbursement basis. On 12-11-07, his services were terminated without notice. That during 2003 to 2007, he worked more than 240 days during each of the year. He was regular employee under Section 25 B of ID Act. His services were terminated without notice, retrenchment compensation as not paid to him. Termination of his service is in violation of Section 25-F of ID Act. On such ground, workman prays for his reinstatement with backwages.
3. 2nd party filed Written Statement opposing claim of workman. 2nd party submits that it is established under State Bank of India Act. State Bank of Indore was merged with it on 28-7-2010. As per notification dated 27-8-2010 only permanent employees working in State Bank of Indore are absorbed in State Bank of India. Ist party workman worked on daily wages is not entitled for absorption in the Bank. Workman was not eligible for giving option as per the notification. 2nd party denies that workman worked as peon on daily wages in State Bank of India since 2003. It is denied that he was working from 8 AM to 8 PM. Workman was not in continuous service. Workman has not disclosed details of his working. It is denied that the record about his working is available in the Bank. 2nd party has referred to ratio held in various cases and submits that as workman was not appointed following recruitment rules against sanctioned vacancies, his claim deserves to be dismissed.
4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of the then State Bank of Indore, Jobat branch, now State Bank of India, Jobat Branch in terminating the services of Shri Bhav Singh, S/o Shri Mukam Singh Chouhan w.e.f. 12-1-2007 is legal and justified?	The dispute under reference could not be decided on merit.
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. After reference of the dispute, both parties submitted their pleadings. Workman did not produce his evidence. It appears workman was dead. His LR's are not brought on record. No evidence is adduced by workman or his LR's in the matter. Evidence of 1st party was closed on 1-5-2017.
6. 2nd party management also not adduced evidence. In absence of evidence by both parties, reference could not be decided on merit. accordingly I record my finding in point No.1.
7. In the result, award is passed as under:-
 - (1) The dispute under reference could not be decided on merit.
 - (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

काआ. 2185.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी भारतीय स्टेट बैंक के प्रबंधन के स।बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 10/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12011/89/2014-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2185.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2015) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11.09.2017.

[No. L-12011/89/2014- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/10/2015

General Secretary,
Dainik Vatan Bhogi Bank Karamchari Sangathan,
F-1, Karambhoomi, Tripti Vihar,
Opp Engineering College, Ujjain (MP)

...Workman/Union

Versus

State Bank of India,
Regional Business Office,
5, Yashwant Niwas Indore, Bhopal

...Management

AWARD

Passed on this 3rd day of July 2017

1. As per letter dated 1-1-2015 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/89/2014-IR(B-I). The dispute under reference relates to:

“Whether the demand by the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan w.r.t. Shri Suresh Chandra Solanki working in State Bank of India during period 1-6-07 to 31-10-2011 for difference of wages as per Bipartite Settlement is justified? If so to what relief workman Shri Suresh Chandra Solanki is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim through General Secretary, Daily Wage Bank Employees Union. The case of Ist party workman is that services of Bank employees are covered by Para 20.7 of Bipartite Settlement dated 19-10-66. On 1-6-07, workman was orally engaged as permanent peon on daily wages Rs.60/-. The wages were increased to Rs.80, 100, 150 per day. The record is available with the Bank. The monthly payments were made through Saving Bank Account. State Bank of Indore is merged in State Bank of India in August 2010. He was not paid bonus for the year 2007 to 2012. He worked under various Branch Managers. Workman further submits that daily wage employees were paid scale wages as per Para 5.191 of Desai Award & Bipartite Settlement dated 9-0-96. He claims to be entitled to scale wage as per 4th to 9th bipartite settlement. The scale wages were paid to Vir Singh, Sushil Tiwari, Chhotelal Kushwah in Vindyanchal and Chholaroad branch, Bhopal. On such ground, workman prays for payment of difference of wages.
3. 2nd party is proceeded without Written Statement on 5-8-2015.
4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether demand by the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan w.r.t. Shri Suresh Chandra Solanki working in State Bank of India during period 1-6-07 to 31-10-2011 for difference of wages as per Bipartite Settlement is justified?	In Negative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

5. Point No.1- The term of reference pertains to demand of Union for difference of wages as per Bipartite Settlement. 2nd party management had not filed Written Statement. 2nd party is proceeded without Written Statement on 5-8-15.
6. Workman filed affidavit of his evidence supporting his contentions in statement of claim that he was engaged as daily wage peon on 1-6-07. He was paid Rs.60 per day. Wages were increased to Rs.80,100,150 per day. He was working 8 hours in Bank from 9.30 AM to 6 PM. He worked more than 240 days in the branch. His services were terminated without notice on 31-10-11. Retrenchment compensation was not paid to him. He worked with various Branch Managers. That as per 9th Bipartite Settlement dated 27-4-00, applicable from 1-11-07, the pay scale of employees in sub cadre was Rs.5500-000 & from 1-5-10 Rs.5815 to 1315. The difference was paid to Vir Singh, Sushil Tiwari, Chhotelal Kushwah in Vindyanchal and Chholaroad branch, Bhopal as per settlement dated 1-6-07. The minimum wages prescribed are for unskilled, skilled categories as narrated. From evidence of workman, documents Exhibit W- to 5 are admitted. In his cross examination, workman admits Exhibit W-4,5 are not bearing seal of Bank. In his further cross, he admits any selection process was not followed before his engagement. Appointment letter was not given to him. Wages were paid in cash and depositing in Bank. He was not paid wages 4-15 days. He claims ignorance about bipartite settlement mentioned in his affidavit of evidence. On re-examination, workman says he had paid membership subscription as per Exhibit W-6.
7. Management has not filed Written Statement as well as evidence. Document Exhibit W-1 is Banker's cheque issued in name of workman for amount of Rs.2012/-. Exhibit W-3 is copy of Banker's cheque for Rs.1217 in name of workman. Exhibit W-2-22 are entries in account in name of workman Suresh Chandra amount debited and credited in account are shown but entries donot disclose on what account, amount was credited in his account. Workman has not produced bipartite settlement. Therefore it is not possible to consider whether workman who was engaged on daily wages is entitled for wages under Bipartite Settlement. For above reasons, I record my finding in Point No.1 in Negative.

8. In the result, award is passed as under:-

- (1) The demand by the General Secretary, Dainik Vetan Bhogi Karmchari Sangathan w.r.t. Shri Suresh Chandra Solanki working in State Bank of India during period 1-6-07 to 31-10-2011 for difference of wages as per Bipartite Settlement is not proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2186.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी भारतीय स्टेट बैंक के प्रबंधन के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 13/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12012/94/2005—आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2186.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2007) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11.09.2017.

[No. L-12012/94/2005—IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/13/2007

Shri Vinay Kumar Mishra
S/o Late Ram Shipahi Mishra,
H. No. 874, Lal Mati Chand Mari Talia,
Near Hanuman Mandir, Jabalpur

... Workman

Versus

Branch Manager,
State Bank of India, Ridge Road Branch,
Jabalpur.

Deputy General Manager,
State Bank of India, Regional Office,
Vijay Nagar, Jabalpur

...Management

AWARD

Passed on this 6th day of July 2017

1. As per letter dated 9-1-17 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/94/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of State Bank of India in not considering the services rendered from 1990 to 1996 for regularization and terminating the services of Shri Vinay Kumar Mishra from the year 1996 is justified? If not, what relief he is entitled to?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/3. Case of Ist party workman is that he was employed in 2nd party No.3 GCF branch Jabalpur on post of waterman from January 1990. He worked till 31-12-91. Thereafter he was transferred to SBI Ridge Road branch Jabalpur-2nd party No.3 where he worked till 1996. He was appointed following

selection process. He was continuously working to the satisfaction of his superiors. His services were discontinued by 2nd party No.3 without notice in 1996. He completed more than 240 days continuous service during each of the calendar year. He had acquired status of permanent employee. That discontinuation of his service is arbitrary and act of victimization, unfair labour practice. It amounts to retrenchment under ID Act. He was not paid retrenchment compensation. Termination of his service is in violation of Section 25-F of ID Act. After his discontinuation, 2nd party appointed fresh persons for same job and regularize them. As such violate Section 25 H of ID Act. On such ground, workman prays for his reinstatement with backwages.

3. 2nd party filed Written Statement opposing claim of workman. 2nd party contends that reference made by Government assuming workman in employment of management is not legal. Said disputed question is required to be decided by this Tribunal. While making reference, submissions of 2nd party were overlooked. Management had denied employer employee relationship on conciliation proceeding. That workman was employed in staff canteen managed by Implementation Committee/ Welfare Committee. Bank management had no concern with function of the committee.
4. 2nd party further reiterates Ist party was not employed by the management. There was no question of his transfer to other branch. Ist party was not employed by management. There was no question of his selection. That workman has taken contradictory pleas about his employment to pleas taken in conciliation proceedings. Before ALC Jabalpur, Ist party had claimed that he worked as machine boy in GCF branch SBI. No such post is existing in the branch. Management never employed workman. There was no question of his termination or discontinuation. It is denied that workman had worked continuously more than 240 days in a year. It is reiterated that employer employee relationship does not existed between Ist party and management. There was no question of his retrenchment in violation of provisions of ID Act. 2nd party has referred to ratio held in various cases and prays that workman is not entitled to any relief. Ist party filed rejoinder reiterating that he was working as waterman, messenger, canteen boy. His salary was prepared along with other staff in the Bank. Charge register was maintained in the branch. Payments were made from petty cash by cheque.
5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of State Bank of India in not considering the services rendered from 1990 to 1996 for regularization and terminating the services of Shri Vinay Kumar Mishra from the year 1996 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. The term of reference pertains to denial of regularization and legality of termination of services of workman. Affidavit of evidence is filed by workman supporting his claim. From January 990, he was appointed as waterman on vacant post. He was continuously working till 31-12-91. Thereafter he was transferred to Ridge Road branch where he worked till 1996. His services were orally terminated in 1996. He completed more than 240 days continuous service preceding 12 months of termination of his service. He was paid from petty cash ledger vouchers were prepared. More than 100 employees are working in the Bank. Notice of termination was not given to him. He was not paid retrenchment compensation. After termination of his service, he is unemployed. In his cross examination, workman says appointment letter was not given to him. He was interviewed before his engagement. The post used to be advertised. He was appointed on vacant post of waterman. Even after his request, appointment letter was not given. He denies that he was engaged as per exigencies. After his disengagement, Manoj Tiwari, Vikas Sharma are engaged in GCF branch. He denied that he not worked more than 240 days during any year.
7. Management's witness Anup Bannerjee filed affidavit of his evidence. Management's witness in his affidavit says workman was employed in staff canteen managed by Welfare Committee. He was never employed by management, there was no question of his transfer. Recruitment in Bank is done through selection process. Recruitment is done through SSC. Management's witness in his cross says he was posted in FCF branch, Ridge Road branch during 1990 to 1996. From record available in the Bank as to who were working during the period 90-96, he filed affidavit of his evidence. He had seen documents for the period 1991 to 1996. Those documents are not produced on record.

8. During course of argument, learned counsel for Ist party workman Shri R.K.Soni submits that application for production of documents was filed by Ist party on 1-2-2011. Management has not produced documents. The record shows 2nd party had filed reply to application for production of documents. As per ordersheet dated 27-6-12, counsel for management submitted that he will verify documents and will give report as well as relevant documents if possible will be produced. Case was fixed for production of documents. Documents are not produced by management. Shri R.K.Soni also submits that list of cheques about payments made to workman was admitted. Said list bears endorsement "Admit" but it is not certain who has made said endorsement, list of cheque was not exhibited.
9. Learned counsel for management Shri R.C.Shrivastava in support of his argument relies on short note on the point that burden of proof lies on workman to show that he had worked continuously for 240 days in the preceding one year prior to his alleged retrenchment. Employee doesn't derive any legal right to be regularized in service.
10. Reliance is also placed on ratio held in case between
Surenranagar District Panchayat versus Dahyabhai Amarsinh reported in 2005-AIR-SCW-5562. Their Lordship dealing with Section 25-F, 2(oo), 25B and 240 days continuous service held workman claims to have worked more than 10 years as daily wager apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced, no co-worker was examined, muster roll produced by employer has not been contradicted. That workman failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service.
He is not entitled to protection of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Affirmative.
11. Point No.2- In view of my finding in Point No.1 workman has failed to prove termination of his service is illegal for violation of Section 25-F of ID Act. Workman is not entitled to any relief.
12. I may also refer to ratio relied by Shri R.C.Shrivastava in case between-
C.N.Ramappa Gowda versus Chandregowda and another reported in 2012(5)SCC-265. Ratio relies to uncontested or exparte judgment and decree when warranted. Matters to be proved by burden of proof on plaintiff. Existence of disputed questions of fact established from plaint itself.
Ratio held in the case has no bearing to the facts of present case.
Next reliance is placed in case between M.P.Housing Board and another versus Manoj Shrivastava reported in 2006(2)JLJ-1. Ratio held in the case pertains to Section 21(2)(B) of IE(SOS)Act1961(MP). The pleadings of parties are absolutely silent w.r.t. provisions of said act. Ratio held in the case therefore cannot be applied to case at hand.
To sumup, the workman is not entitled to any relief as he has failed to establish his working more than 240 days preceding termination of his services. Accordingly I record my finding in Point No.2.
13. In the result, award is passed as under:-
 - (1) The action of the management of State Bank of India in not considering the services rendered from 1990 to 1996 for regularization and terminating the services of Shri Vinay Kumar Mishra from the year 1996 is legal and proper.
 - (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2187.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी मध्य रेलवे के प्रबंधतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 17/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-41012/122/2000-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2187.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2004) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 11.09.2017.

[No. L-41012/122/2000– IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/17/2004

Shri Ganesh Prasad,
S/o Shri Babloo Lal
C/o C.D. Lakhe,
Near Kasturba Girls School,
Near Gandhi Nagar, Po Itarsi,
Distt. Hoshangabad (MP)

...Workman

Versus

Divisional Railway Manager,
Central Railway,
Divisional Office, Engineering Branch,
Bhusawal

...Management

AWARD

Passed on this 11th day of July, 2017

1. As per letter dated 10-3-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-41012/122/2000-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Central Raiwlay in terminating the services of Shri Ganesh Prasad S/o Shri Baboo Lal w.e.f. 22/11/1986 is justified? If not, to what relief the applicant is entitled to?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/6. Case of workman is that he was engaged as casual labour on 19-4-76. Casual service card was issued to him on payment of fees of Rs.2/-. On the basis of service card, he was appointed on post of permanent gangman during the period 19-4-78 to 22-10-86, he was working under PWI Harda. Service card No. 211623 was issued by PWI Harda. Service card was taken back from him telling him that he acquired permanent post. On 8-4-84, workman was informed vide notice by PWI Burhanpur that the post was not available in his jurisdiction. He would be disengaged from his work of gangman. That on 17-6-85, he was ill. He received treatment from Medical Officer Khandwa. Chargesheet was issued to him on 28-12-85 for unauthorised absence. His signatures were obtained on certain documents. Workman was not asked anything. Documents were in English. His services were terminated on 26-12-85. He was given understanding for filing appeal within 45 days. He was not supplied any documents. On 9-6-87 workman had sent appeal by RPAD. He didn't receive any order from Appellate Authority. Workman submits order of his termination is void. He raised dispute. However the Government had refused to make reference without any reasons. Workman filed Writ Petition 6832/00. As per order dated 3-12-03, dispute has been referred by Government. By amendment, Ist party has pleaded that he has studied 4th standard. He was in service till 28-12-85. Chargesheet was issued to him for unauthorized absence. He had submitted medical certificate bout his illness. He received order of termination on 24-10-86. Exparte enquiry was conducted against him. He was not given opportunity of Defence Assistant for producing evidence of his witnesses. Enquiry was conducted in violation of principles of natural justice. He was dismissed from service without issuing chargesheet. On such ground, workman prays for his reinstatement with backwages.

3. Management filed Written Statement opposing claim of workman at Page 6/3 to 6/7 opposing claim of workman. Engagement of workman is not disputed. 2nd party submits that he was engaged as MRCL and not permanent gangman. It is denied that services of workman were terminated without following proper procedure. Workman was engaged as casual labour. After fulfilling conditions as per procedure, he was posted as MRCL. Workman was absent from duty. From 29-9-85 to 8-12-85 for 77 days broken period. Chargesheet was issued to workman on 28-12-85. Workman had acknowledged the same. That M.C.Chaco was appointed as Enquiry Officer. Enquiry was fixed on various dates 18-9-86. Workman was present in enquiry. After completion of enquiry, report was submitted. Considering the findings of Enquiry Officer, Disciplinary Authority passed order dated 18-10-86. Considering workman was found guilty of charges, punishment of removal was imposed. Workman failed to submit appeal against Enquiry Report. After dispute was raised by workman, Government found that dispute was raised after lapse of 14 years did not refer the dispute. It is reiterated that workman is not entitled to any relief.
4. As per order dated 30-8-16, enquiry conducted against workman is found legal.
5. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the charge of unauthorized absence alleged against workman is proved from evidence in Enquiry proceedings?	In Affirmative
(ii) Whether the punishment of removal imposed against workman is proper and legal?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order

REASONS

6. Point No.1- As per order dated 30-8-16, enquiry conducted against workman is found legal. Whether charges alleged against workman are proved needs to be decided from evidence in Enquiry Proceeding. Management has produced documents at Exhibit M-1 to M-11. Chargesheet Exhibit M-3 issued on 11-12-85 for unauthorized absence of 77 days broken period. Enquiry Proceeding Exhibit M-8 in reply to Q.4, Ist party workman admitted his absence for 77 days. Workman explained that he was not well consequently remained absent. Enquiry Officer submitted his report at Page 102 holding workman guilty of charges. Workman has not produced any document applying for leave or medical certificate about his illness. In evidence in Enquiry Proceedings, workman admitted his absence is sufficient to prove charge of unauthorized absence against workman. For above reasons, I record my finding in Point No. in Affirmative.
7. Point No.2- As per my finding in Point No. charge of unauthorized absence for 77 days is proved against workman, question remains for consideration whether punishment of removal from service imposed against workman is proper and legal. Learned counsel for management Shri R.K. Soni submitted written notes of argument contending that the dispute is raised after long delay is not tenable.
8. Reliance is placed on ratio held in case between-

Nedungadi Bank Ltd. versus K.P.Madhavankutty and others. Their Lordship observed it could not be said that in the circumstances industrial dispute arise or not even after lapse of about 7 years of dismissal of the respondent. Whenever workman raised some dispute, it doesnot become industrial dispute and appropriate Government cannot in a mechanical fashion make a reference of the alleged dispute treating it as industrial dispute. Central Government lacked power to make reference both on the ground of delay in invoking the power under Section 10 of the Act and there being no industrial dispute existing or even apprehended.

Learned counsel for workman Shri P.Yadav on the point relies on ratio held in case between

Shahaji versus Executive Engineer PWD reported in 2007(115)FLR-675. Their Lordship dealing with delay held if reference is delayed by several years, reference made about 16 years difference, Labour Court not entertained the dispute on the ground of delay in making reference. Judgment of this Court in Ajaib Singh lays down the correct law. In para-5 of the judgment, Lordship considering ratio held in Case of Ajaib Singh versus Sirhind Coop Marketing cum processing Society Ltd and Nedungadi Bank Ltd case, Sapan Kumar Pandit case, held we have gone through the judgment, we have no doubt that the judgment of this court in Ajaib Singh's case lays down law correctly. In the instance case, there was no ground of delay urged by management. Even if there was delay in making the reference, the Labour court came to the conclusion that termination was illegal, it could have suitably moulded the relief to be granted to the workman in view of delay. In such cases, the award of backwages may either be not permitted or curtailed. In Nedungadi Bank's case what was challenged

before the High Court was the order making the reference. That was not a case where Labour Court refused to entertain the dispute on ground of delay.

Considering ratio held in above cited case and dispute is raised after delay of about 7 years, the relief could be suitably moulded, in present case, punishment of removal is imposed against workman for unauthorised absence for 77 days i.e. for short period. Removal from service would not be justified, the punishment appears harsh. Shri R.K.Soni on the point relies on ratio held in case between

State of Rajasthan versus Mohammed Ayub Naz reported in 2006-AIR-SCW-197. Their Lordship dealing with punishment imposed by Disciplinary Authority considering delinquent remaining absent for 3 years, interference in punishment of removal from service was held.

The facts of present case are different. The admitted unauthorized absence is only for 77 days therefore ratio held in the case cannot be beneficially applied to present case.

Reliance is also held in case between New India Assurance Company Ltd versus Vipin Behari Lal Srivastava reported in 2008-AIR-SCW-1629. The facts are not comparable. Workman was unauthorized absent for 600 days. Medical certificate from registered medical practitioner was not produced.

Considering short period of absence of workman for 77 days, punishment of removal from service is not justified. In my considered view, punishment of removal is modified to withholding of 3 increments. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under:-

- (1) The action of the management of Central Raiway in terminating the services of Shri Ganesh Prasad S/o Shri Baboo Lal w.e.f. 22/11/1986 is illegal.
- (2) Punishment of removal from service is modified to withholding of 3 increments. Workman be reinstated with continuity of service but without backwages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2188.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी आईसीआईसीआई बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 33/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12011/57/2012-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2188.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of ICICI Bank Ltd. and their workmen, received by the Central Government on 11.09.2017.

[No. L-12011/57/2012- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE ENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/33/2013

General Secretary,
Dainik Vetan Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar, Opp Engg.College, Ujjain

...Workman/Union

Versus

Assistant General Manager,
HRMG, ICICI Bank Ltd.,
Trans Trade Center, MiDC, Seepz, Andheri (E), Mumbai

...Management

AWARD

Passed on this 3rd day of July, 2017

1. As per letter dated 1-2-13 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/57/2012-IR(B-I). The dispute under reference relates to:
 “1. As claimed by Union whether Shiv Singh Gehlot is entitled for regularization in the service of non-application from 10-5-10. If so then the benefits if any he is entitled to? 2. ICICI-BOR is a Banking Industry? 3. The nearest Tribunal is CGIT, Jabalpur?
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through General Secretary, Daily Wage Bank Employees Union. Case of Ist party workman is that he was working in Bank of Rajasthan since 26-11-93 as peon who was doing cleaning sweeping work. Bank of Rajasthan is merged in ICICI Bank. He was paid Rs.13 per day, he was doing work of cleaning, sweeping, supplying drinking water to staff and customers. Wages were increased to Rs.300. He was paid /3rd scale wages as per 6th to 9th Bipartite settlement. Payment was made to him in bogus name. After revision of pay as per 9th settlement, from 1-11-07, his pay was increased from Rs.740 pm to Rs.1030 pm. He was paid arrears. Revised pay was paid to him from November 2010. Arrears of Rs.3225 was deposited in his Saving Account No. 0040285101400. That he worked more than 240 days during each year. He had rendered 20 years unblemished service. He was eligible for regularization. Workman claims difference of wages claiming 1/3rd pay scale as per Bipartite Settlement.
3. 2nd party filed Written Statement opposing claim of workman. 2nd party raised preliminary objection that Shri R.Nagwanshi being a dismissed employee of State Bank of Indore is not competent to raise the dispute. 2nd party has referred to ratio held in various cases. Hon’ble High Court held that Shri R. Nagwanshi is not competent to raise and prosecute the dispute.
4. 2nd party further submits that it is a banking establishment. Bank of Rajasthan was merged in ICICI Bank. Bank has rules and regulations for recruitment, appointments of clerks, sub staff etc. workman was not appointed following selection process, appointment letter was not issued to him. That during working hours of the Bank for cleaning sweeping work, workman was engaged on casual basis for 20-25 minutes as per exigency. Workman was paid as casual labour. He was not working as regular peon in the Bank. Branch Manager has no authority to appoint peon. Ist party is not covered as workman under ID Act. He not completed 240 days continuous service. That Ist party workman is working in private establishment. Workman had filed proceeding under MW Act. Competent Authority held that workman was not entitled to minimum wages. Claim of workman was rejected. Ist party workman is raising various disputes. 2nd party prays that claim of workman be rejected.
5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether ICICI Bank is an industry?	In Affirmative
(ii) Whether the claim of Union that Shri Shiv Singh Gehlot is entitled for regularization in the service of non-application from 10-5-10 is legal?	In Negative
(iii) If so, to what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

6. Point No.1- The term of reference pertains to whether 2nd party Bank is an Industry. In Written statement filed by Bank and evidence of management’s witness, it is clear that the Bank is engaged in Banking business. 2nd party is not discharging sovereign functions of State. Banking activities are covered under Section 2(j) of ID Act where Industry is defined. For above reasons, I hold my finding in Point No. that Bank is covered as a Banking Industry.
7. Point No.2- The term of reference also pertains to demand by Union whether Ist party is entitled for regularization in service from 10-5-10 and consequential benefits workman is entitled to. Workman on 28-4-15 after documents Exhibit W-1 to 10 were admitted by management, submitted not to adduce evidence in the case. Documents Exhibit W-1 is interview call issued to Ist party workman dated 20-3-99, Exhibit W-2 is letter issued by Dy.GM(P) dated 3-8-99 wr.t. requirement of cleaning staff. The detailed information will be submitted while making recommendations. Exhibit W-3 to 5 are copies of payments by

- Banker's cheque in name of Satish Sharma- Rs.300, workman Rs.740/- on 3-1-03, 3-9-00 to 3-10-02, 3-1-02, 3-7-02- Rs.480, 2/8/02- Rs.740/- & 4-3-02- Rs.300. Exhibit W-6 is reply filed before RLC, management contending that workman was engaged for 20 months. Exhibit W-7 shows demand of arrears to Ist party workman during year 99 to 2006. Total amount Rs.11200.70. Exhibit W-8 shows payment of Rs.6690 to Ist party workman on 5-8-07, Rs.4510.70 on 5-3-07, Exhibit W-9 is copy of entries in State Bank Account of workman showing different amount deposited during the year March 07 to Feb. 11 & entries of it. Those documents donot shows that workman was working for 8 hours s claimed by him. Exhibit W-10 is order of merger of Bank of Rajasthan in ICICI Bank.
8. As Ist party workman has not adduced evidence, his claim that he was continuously working from 26-11-93 or he had completed 240 days continuous service preceding 12 months of termination of his service cannot be established.
 9. Management filed affidavit of evidence of Shristi Priya supporting contentions in Written Statement that workman was engaged for 20-25 minutes for cleaning sweeping work. Workman not completed 240 days continuous service. In her cross-examination, management's witness says that Bank of Rajasthan merged in ICICI Bank in August 2010. She was not posted in Neemuch branch. She claims ignorance at what rate workman was paid wages. She also claims ignorance whether difference of arrears was paid to workman or he was paid scale wages. Evidence in cross-examination of management's witness doesnot support that workman had continuously worked more than 240 days or he was continuously working for 8 hours since initial engagement in 993. Claim for regularization of workman is not substantiated from evidence on record. Therefore I record my finding in Point No.2 in Negative.
 10. Point No.3- In view of my finding in Point No.2 claim for regularization of workman is not established, workman is not entitled to any relief.
 11. In the result, award is passed as under:-
 - (1) The claim of Union that Shri Shiv Singh Gehlot is entitled for regularization in the service of non-application from 10-5-10 is not justified.
 - (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2189.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी आईसीआईसीआई बैंक (ईबीओआर) लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 114/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12011/27/2002-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2189.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 114/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of ICICI Bank (EBOR), and their workmen, received by the Central Government on 11.09.2017.

[No. L-12011/27/2002- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/114/2012

General Secretary,
Dainik Vetan Bhogi Bank Karmchari Sangathan,
F-1, Tripti Vihar, Opp Engg. College, Ujjain (MP)

... Workman/Union

Versus

Regional Manager,
ICICI Bank (EBOR),
ICICI Regional Head,
22, Y.N.Road, New Palasia, Indore

...Management

AWARD

Passed on this 7th day of July 2017

1. As per letter dated 19-10-12 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/27/2002-IR(B-I). The dispute under reference relates to:

“Whether the demand of the Union, Dainik Vetan Bhogi Bank Karmchari Sangathan for payment of bonus for the period from April 1998 to February 2008 to Shri Ramachandra Prabhulal Pawar is legal and justified? To what relief, Shri Ramachandra Prabhulal Pawar is entitled?”
2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim through General Secretary, Daily Wage Bank employees Union. Case of Ist party is that he was engaged orally on post of permanent peon in April 1998. He was paid Rs.15 per day. Wages were increased to Rs.40, 55 per day. He had completed more than 240 days continuous service during each of the year. His services were terminated violating Section 25-F of ID Act in February 2008. He was not served with notice, retrenchment compensation was not paid to him. Workman claims to be eligible for bonus under Section 8 of Payment of Bonus Act. On such ground, workman prays bonus for the period April 98 to February 2008.
3. Management filed Written Statement opposing claim of workman. 2nd party management submits that reference pertains to termination of services of Ist party workman R/83/0 is pending before this Tribunal. It is submitted that workman did not work as peon in the Bank. He was intermittently engaged for 1-2 hours as casual labour. He is not covered as workman. Ist party is not entitled for bonus. It is denied that workman was working from April 98 to February 2008. It is reiterated that Ist party workman is not employee of the Bank, he is not eligible for bonus. Reference is not tenable. So called General Secretary of Union Ram Nagwanshi is dismissed employee of State Bank of Indore is not competent to raise and prosecute the reference. Shri Ram Nagwanshi is carrying legal profession under name of Trade Union. Union is not functioning in the Bank. Branch Manager is not competent to appoint peon, messenger, Security Guard, Daftary. That recruitments in the Bank are made following selection process issuing public advertisement and calling names from Employment Exchange etc. It is reiterated that workman was engaged as per exigencies for cleaning, sweeping work for 30-40 minutes in a day in the Bank. That M/S Top Security Agency has sent workman for work of office boy. Workman was paid wages by said securities. Top security services disengaged workman on 1-3-08. Workman is not employee of the Bank. He is not eligible for bonus claimed by him. It is denied that workman was engaged as peon on daily wages. It is denied that workman was paid Rs.15 per day and wages were increased. Workman had not completed 240 days continuous service. 2nd party prays for rejection of claim.
4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the demand of the Union, Dainik Vetan Bhogi Bank Karmchari Sangathan for payment of bonus for the period from April 1998 to February 2008 to Shri Ramachandra Prabhulal Pawar is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?”	As per final order.

REASONS

5. The term of reference pertains to demand of bonus by Ist party workman. He has not adduced oral evidence. Union Representative R.Nagwanshi submitted in writing not to give oral evidence. The documents produced by Ist party admitted by management Exhibit W- is notice inviting applications for sub staff holding educational qualification not above 8th standard is between 18 to 30 years, part time employees working for 180 days full time employee working 80 days. Exhibit W-2 is interview call issued to the workman. He was called for interview on 15-4-99. Exhibit W-3 is panel list, name of workman is not appearing in panel list. Exhibit W-4 is letter issued by G.R.Singhvi calling information w.r.t. engagement of casual labours in the branch. Exhibit W-5 is information submitted by branch shows Ramchandra Sharma was engaged as casual labour during Sept.1999 till 12-3-04, wages paid Rs.40 +15 per day. Said document doesnot pertain to the workman. Exhibit W-6 shows Top Security issued certificate that workman was working as office boy in Bank of Rajasthan during June 2005 to February 2008. Exhibit W-7 to 9 is written note of argument submitted before RLC by management. Management had claimed that workman was engaged for 30-40 minutes for cleaning work. Exhibit W-11 is certificate issued by top security Ltd. Ist party workman was on pay roll of Rajasthan Bank during 2005 to 2008. Copy of affidavit of evidence of Ramdev Sinha in R/1/09 reference between Bhupendra Pawar and Bank is filed. Evidence in other case pertaining to Bhupendra Pawar is not relevant for deciding the claim under dispute. As management has admitted document Exhibit W-1 shows that Ist party workman was on its pay roll during June 2005 to February 2008 without any break. As per Section 8 of Payment of Bonus Act, employee working more than 30 days is eligible for bonus. As per Section 10 of PB Act, 8.33% statutory bonus is payable to such employees. For above reasons, I record my finding in Point No.1 in Affirmative.
6. In the result, award is passed as under:-
- (1) The action of the management in not paying bonus to Shri Ramachandra Prabhulal Pawar for the period June 2005 to February 2008 is illegal.
 - (2) 2nd party is directed to settle bonus payable to Shri Ramachandra Prabhulal Pawar for the period June 2005 to February 2008 at the rate of 8.33 %.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2190.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी उज्जैन क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 82/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12012/60/2001-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2190.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 82/2001) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of Ujjain Ksheriya Gramin Bank, and their workmen, received by the Central Government on 11.09.2017.

[No. L-12012/60/2001- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/82/2001

Shri Ganeshlal S/o Ramchandra Verma,
Jharan Colony, Pipali Naka,
Opp. Tapastall, Ujjain (MP)

...Workman

Versus

Chairman,
Ujjain Kshetriya Gramin Bank,
Head Office, Dussehra Maidan, Ujjain (MP)

...Management

AWARD

Passed on this 28th day of July, 2017

1. As per letter dated 26-4-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/60/2001-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Chairman Indore Ujjain Kshetriya Gramin Bank in terminating the services of Shri Ganeshlal S/o Ramchandra Verma w.e.f. 30-11-91 is justified? If not, to what relief the workman is entitled for?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 9/1 to 9/6. Case of workman is that he was permanent employee of the management of 2nd party. His services have been illegally terminated in violation of provisions of ID Act. That he was working in Indore Ujjain Kshetriya Gramin Bank from 26-10-87 to 19-8-88. During relevant period, some amounts credited in cash section of the bank and kept with him. It is alleged that workman credited such amount deposited by customers after some days and not on the same day. That he was suspended on 13-8-88. Chargesheet was issued to him. Charges pertain to –Charge No.1 withdrawal of Rs.1000 on 26-9-87 in name of Onkar Singh who had no account in the Bank, Charge No.2 is on 27-7-00, Shri Karan Singh given Rs.500 for depositing in his recurring account. It is alleged that said amount was deposited on 4-8-88. On 4-8-88, workman received Rs.2150 from Ramesh Chand Vardichand for depositing in his account No.11 and the same was deposited on 10-8-88. On 5-3-88, workman received Rs.100 from Tejram S/o Ratanlal Darji credited to his account on 24-3-88. On 28-12-87, workman received amount Rs.100 from Nanhuram Baghera amount credited on 1-1-88. On 2-5-88, workman received amount Rs.2000 from Shri R.K.Meena and another Rs.2000 on 9-5-88, the same was credited in the account on 3-5-88 and 11-5-88 respectively. On 11-6-88, workman Radam Singh S/o Khemraj gave Rs.1500 and Rs.3000 for crediting in his account. Workman credited these amount on 14-6-88 and 15-6-88 respectively. Making false entry and tampering the dates, workman possessed key of branch office from 11.30 AM on 1-8-88 to 13-8-88. When Branch Manager returned back and demanded key, workman misbehaved with him and threw keys on table and left back. Workman not followed condition of remaining at headquarter as per the order of suspension dated 13-8-88.
3. Ist party further submits that charges against him pertain to crediting money to the accounts of customers. If he would have ulterior motive, he would not have deposited amount in the accounts. Workman claims to be innocent and submits that charges against him are false unless account number is not filled in the form, it is not possible to credit amount. Whenever complete form was given amount was credited, entry was made in the pass book. chargesheet is issued to him with malafide intention. That in majority of charges, amount involved is Rs.100 or 200. The workman alleges conspiracy against him in issuing chargesheet. That at the time of Ist charge, Branch Manager was on duty on 26-9-87. He performed his duty even in the matter of Onkar Singh. Workman is illegally implicated. That enquiry was not properly conducted. He had not committed violation of Rule 19 of the service conditions. Workman also submits that his services are terminated in violation of Section 25-F,G of ID Act, he was not paid retrenchment compensation. On such ground, workman prays for his reinstatement with backwages.
4. 2nd party filed Written Statement at page 8 to 14 opposing claim of workman. 2nd party submits that Ist party workman was working as clerk cum cashier from 22-4-87 to 20-10-87. He was working at yokoba branch from 21-10-87. Workman was involved in several charges of misappropriation of customer's money. Workman was involving with Bank cash book, customers ledger book etc. chargesheet was issued to workman on 20-10-89. Charges pertain to misappropriation of money of customers on 26-9-87. Rs.1000 deposited by Onkar Singh, on 27-7-88 amount Rs.1500 deposited by karan Singh, on 4-8-88 amount Rs.2150 deposited by Ramesh Chand Vardichand, on 5-3-88, Rs.100 deposited by Tejram. On 28-12-87 Rs.100 deposited by Nanuram. On 2-5-88, 9-5-88 amount of Rs.2000 was deposited by Shri R.K.Meena. Amount Rs.5000 by Moolchand received by workman on 7-6-88 and deposited in bank on 9-6-88. Etc. the amount of customers were retained by workman for some period and misused. Workman had made false entries of different dates. The entries in account books of the Bank were changed. He misbehaved with Branch Manager. During suspension period, he had left headquarter without permission. DE was conducted against workman. Enquiry Officer submitted his findings holding workman guilty of charges. Findings of Enquiry Officer are based on evidence and documents. Punishment of removal from service imposed

against workman is legal. Appeal preferred by workman was rejected. Workman was given opportunity for his defence. On such ground, 2nd party prays for rejection of claim.

5. As per order dated 31-3-14, enquiry conducted against workman is found not proper and legal/ vitiated. Management was granted permission to prove misconduct.
6. Considering pleadings between parties and order on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the charges alleged against workman are proved by management of 2 nd party?	All charges are proved except charge No. 7 & 11.
(ii) Whether the punishment of removal imposed against workman is proper and legal?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

7. Point No.1 As per order dated 31-3-14, enquiry conducted against workman was found not proper and legal/ vitiated. Management was granted permission to prove misconduct. Corrected chargesheet is produced at Exhibit M-69. Charge No.2 to 8 pertains to late crediting the amount in account of customers of the Bank whereas Charge No. pertains to payment of Rs.1000 to Onkar Singh when there was no account in the bank in his name. charge No.9 pertains to taking false entries and fabricating entries etc. in account books of the bank. Charge No.10 pertains to on demand of key, throwing the key on table and leave bank. Charge No.11 pertains to workman not staying at headquarter as per the terms and conditions of suspension order. Judgment by Criminal Court produced by workman pertains to misappropriation of amount of Rs.5000 only. Workman was acquitted of the charges. After management was granted permission to prove misconduct, management has filed affidavit of evidence of witnesses Subbalal Dayma, Moolchand Heeralal Jain, Praveen Kumar Dhanna, Ramkishan Meena. Workman examined himself on oath.
8. Learned counsel for workman Shri R.K.Soni in his written notes of argument emphasized that chargesheet only for 3 misconduct would be issued against workman. However in this regard, any rule or citation are not brought to my notice.
9. Affidavit of evidence of Shri Subbalal Dayma pertains to transaction in Account No.72 by Karan Singh on 27-7-88. Said Karan Singh was respectable person, was acquainted with him. On 4-8-88, he was not present in the branch. Said Dhan Singh had loan account when he had gone for verifying the repayment of loan amount, Karan disclosed him that he deposited Rs.1500 on 27-7-88, its entry were taken on 4-8-88. During enquiry from workman, he had told that he spend amount of Rs.1500 received from Karan Singh and would deposit the amount in account. His affidavit is further devoted w.r.t. amount Rs.2150 deposited by Ramesh Chand in Account No.11. on 8-8-88, Ramesh Chand had told him for withdrawal of Rs.5000. when this witness verified the account, only balance of Rs.5617.40 was found in his account. Deposit of Rs.2150 dated 4-8-88 was not shown to his account. His evidence is also devoted w.r.t. workman had assured to deposit Rs.2150 in account of Ramesh chand. That amount of Rs.2150 was not arranged by the workman That Smt.Nagibai had assured to deposit Rs.35000 in double benefit scheme . affidavit of witness of management is in detail w.r.t. Charge No.2,3,4,5,8 though amount were received by workman, the amount was credited after some days. Documents M-22 to 67 are proved from evidence of this witness. Management's witness in his cross examination says Exhibit M-21 doesnot bear his signature. Said document was not directly given to him. Exhibit M-22 bears his signature, it is credit note. On credit note, signature of Manager and cashier are necessary. Witness in his further cross says he signed the documents after fully examining it . Amount of Exhibit M-22 was not deposited. He denies that after satisfying that amount Rs.500 shown in M-22 was deposited, he had signed on the documents. That he signed on M-22 for sending amount to the other Bank. In M-23, attendance for whole month is shown. In M-23, there is correction in green ink- workman was shown absent from duty. M-24 is charge register. There is some overwriting in Exhibit M-32 dated 4-8-88 is credited to 0-8-88. Exhibit M-41 complaint received by him. Complainant had directly come to him. There is separate inward outward section in the bank. In Exhibit M-48 date 2-5-88 was corrected to 3-5-88. In Exhibit 49, date 9-5-88 was corrected to 11-5-88. Documents Exhibit M-48,49 bears his signature. These are deposit vouchers. the signature of cashier used to made at the time of preparing vouchers. witness admits that every day, cash received in the Bank used to be verified with payment vouchers. witness denies that in Exhibit M-64, the particulars of the incident are wrongly

written. Witness in his further cross examination denies that workman had given key to him and gone out of the Bank. Witness has re-affirmed that keys lying on ground were collected by him. Witness was unable to tell why it was not mentioned in punchnama.

10. Evidence of management's witness Moolchand Jain pertains to deposit of Rs.5000 on 8-6-88 workman has been acquitted w.r.t. offence under Section 409 IPC by criminal court. The legal position is rather settled that the judgment by criminal court deserves to be respected. In view of acquittal of workman for offence under Section 409 IPC evidence of Moolchand needs no detailed discussion. Shri Moolchand in his cross says in Exhibit M-16, there is overwriting. That M-55/2 to 55/3 donot bear his signatures.
11. Management's witness Praveen Kumar Dhanna in his affidavit of evidence says on 26-9-87, he had signed on the documents except standard forms. From 27-9-87 to 30-9-87 he was on casual leave. Shri Onkarlal was not having saving account in his bank. Evidence of this witness is not much relevant w.r.t. charge No.2 to 8.
12. Ramkishan Meena in his evidence before court says he had account in Ujjain Kshetriya Gramin Bank. On 2-5-88, he deposited Rs.2000 with workman Ganeshlal Verma cashier, its entry was taken in pass book Exhibit M-48. Exhibit M-47 is receipt of Rs.2000 given to him. It bears his signature. Receipt was given to him, entry of Rs.2000 deposited on 2-5-88 was taken on 9-5-88. In his cross examination, witness Ramkishan Meena says he was called in Enquiry Proceedings, his statement was recorded. Reply to Q.14 in the enquiry was readover to him. On 2-5-88 & 9-5-88, he twice deposited Rs.2000. The re-appreciation of evidence is not permissible. The Tribunal cannot act as Appellate Court.
13. Learned counsel for Ist party Shri Vijay Tripathi relies on ratio held in case between-

Inspector Premchand versus Govt. of NCT of Delhi and others reported in 2007(4)SCC-566. Their Lordship dealing with meaning of misconduct and error of judgment of negligence simplicitor is not misconduct.

The facts of present case are not comparable as from reading of Para 12 of the judgment, it is clear that it was a trap made by police and certain negligence were noticed that the tempted amount was not seized. Ratio held in the case cannot be applied to case at hand.

Reliance is also placed in case between Roop Singh Negi versus Punjab National Bank and others reported in 2009(2)SCC-570. Their Lordship held mere production of document is not enough, contents of documentary evidence has to be brought by examining witness.

Management's witness Subbalal Dayma was examined in detail w.r.t. the documents Exhibit M-22 to 67. Considering detailed evidence given by witness, ratio held in the case cannot be applied to present case.

Next reliance is placed in case between Union of India and others versus Gyan Chand Chattar reported in 2009(12)SCC-78. Their Lordship dealing with standard of proof in DE held proof and suspicion are distinct. That in case of corruption only punishment is dismissal in service therefore charge of corruption himself always be dealt and keeping in mind that it has both civil and criminal consequences. Upon the employee concerned. He would be liable to be prosecuted and would also be liable to suffer the severest penalty awardable

Principles laid down is very well followed in this case. Evidence of management's witness discussed above is consistent that workman was working as cashier. Even in his statement of claim para-2, Ist party has pleaded that he was working as LDC/Assistant cashier. In his statement of claim, workman has not specifically denied the transactions pertaining to the charges against him. Rather the late crediting amount is undisputed therefore ratio held in abvoe case cannot be applied to present case.

14. Learned counsel for Ist party Shri R.K.Soni in his argument submits that charge register was not produced. There was double control on money received in the Bank. Workman could have very well call charge register in respect of transactions connected with the charges. Workman did not make any effort for production of charge register. Only argument on the point cannot be a ground for discarding evidence of management's witness.
15. Learned counsel for management Shri A.K.Shashi relies on ratio held in case between-

Bank of India versus D.Padmanabhadu and another reported in 1995-I-LLJ-233 their Lordship held temporary retention amounts to misappropriation.

Evidence of management's witnesses is consistent that money received by workman was not punctually credited to their respective accounts. There was delay in crediting amount in the accounts.

In case between State Bank of Patiala versus S.K.Sharma reported in 1996(3)SCC-364. Their Lordship dealing with Rule 68 B III is procedural provision which is not substantial or mandatory character and substantial compliance having been made therewith, no prejudice caused to the respondent. In Para 32, their Lordship held justice means justice between both the parties. Interest of justice equally demand that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of justice.

Judgment in Writ Petition 3545 of 2006 by their Lordship of Bombay High Court is also relied. Considering the evidence of management's witnesses discussed above, detailed discussion of the judgment is not called for.

In case of Divisional Controller, NEKRTC versus H.Amaresh reported in 2006(60SCC-187. Their Lordship dealing with quantum of misappropriated amount and punishment held misappropriation of small amount of SRTC Rs.360.95 in the case by conductor grave act of misconduct is resulted in financial loss where said charge was proved in domestic enquiry, punishment of dismissal from service awarded by Disciplinary Authority not call interference.

In case between Kanhaiyalal Agrawal and others versus Factory Manager Gwalior Sugar Co.Ltd. reported in 2001-II-LLJ-1239, their Lordship dealing with loss of confidence and principle things to be proved for application of principle are workman holding post of trust, commission by him of acts resulting in forfeiture of that trust and continuance of workman in service proving to be embarrassment and inconvenience to employer or detrimental to discipline or security of establishment held on facts inference appropriately drawn.

Reliance is also placed in case between Corporation of Nagpur versus Ramchandra. I have gone through the ratio held in the case, detailed discussion is not necessary.

In present case for one or the charge pertaining to amount of Rs.5000 workman has been acquitted for offence under Section 409 IPC. Rest of the charges have been proved. For reasons discussed above, I record my finding in Point No.1 that except charge No. 7 & 11 rest of the charges are proved

16. Point No.2- In view of my finding in Point No.1 the proved charge against workman pertains to various monetary transactions workman received amount and deposited late. Evidence of management's witness Subbalal Dayma is further clear that workman explained that he spent amount himself and deposited amount when it is available with him. The proved misconduct is of misappropriation which is a serious misconduct. I do not find any reason to interfere with the punishment imposed on workman. Workman is not entitled to any relief.
17. In the result, award is passed as under:-
 - (1) The action of the management of Chairman Indore Ujjain Kshetriya Gramin Bank in terminating the services of Shri Ganeshlal S/o Ramchandra Verma w.e.f. 30-11-91 is legal and proper.
 - (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2191.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी आईसीआईसीआई बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 51/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12011/19/2009-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2191.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 51/2010) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur* as shown in the Annexure, in the industrial dispute between the management of ICICI Bank and their workmen, received by the Central Government on 11.09.2017.

[No. L-12011/19/2009- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/51/2010

General Secretary,
Prathadit Karmchari Kalyan Manch,
F-1, Tripti Vihar, Opp Engg.College, Ujjain

...Workman/Union

Versus

Branch Manager,
ICICI Bank,
M.G. Road, Indore (MP)

...Management

AWARD

Passed on this 7th day of July 2017

- As per letter dated 3-12-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12011/19/2009-IR(B-I). The dispute under reference relates to:
“Whether the action of the management of Bank of Rajasthan Ltd., Indore in not paying wages equal to the regular employee to Shri Bhupendra Pawar from March 1996 to 15-1-2005 is legal and justified? To what relief the workman is entitled?”
- After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through General Secretary, Daily Wage Employees Union. Case of Ist party is workman Bhupendra Pawar was engaged by Branch Manager R.L.Mundra as sub staff/ peon on 1-3-96. He was working 8 hours in a day. He completed 240 days continuous service during each of the year. He was paid Rs.25/-, increased to Rs.30,40,50,60 per day. His services were terminated in violation of Section 25-F of ID Act without notice. Retrenchment compensation not paid to him. Dispute pertaining to termination of his service in R/1/09 is pending. Workman reiterates that he is eligible for revised wages as per 6th to 8th Bipartite settlement. That State Bank of India, Karur Vaishya Bank, Bank of Maharashtra paid arrears of difference of wages to temporary peon/ daily wage employees. It is alleged that 2nd party violated bipartite settlement which is punishable under Section 29 of ID Act. Workman prays for difference of wages for the period 1-3-96 to 15-1-2005.
- 2nd party filed exhaustive Written Statement opposing claim of Ist party workman. 2nd party submits that in R/1/09, legality of termination of Ist party workman is challenged. Award was passed on 1-3-13 against workman. Present dispute is raised claiming payment of wages as per bipartite settlement is not tenable. Ist party is not covered as workman, he was not appointed following rules of recruitment of sub staff. Workman was not continuously working from March 96 to 15-1-2005. So called General Secretary Ram Nagwanshi was dismissed from service of State Bank of Indore on 1-12-01. He is not competent to raise and prosecute the dispute under reference. It is reiterated that Bank of Rajasthan is merged in ICICI Bank. Bank has rules and regulations for recruitment of clerk and sub staff. Workman was not appointed following any recruitment process. Post was not advertised. Workman was not sponsored by Employment Exchange. It is submitted that for cleaning sweeping work and cleaning of toilets as regular peons are not doing said work, daily wage employees used to be engaged for one or two hours. Bhupendra Pawar was engaged as casual employee for 2 hours in a day for cleaning sweeping work. He was paid wages. Workman is not regular employee, he is not eligible for bonus. On such ground, 2nd party prays for rejection of claim.
- Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Bank of Rajasthan Ltd., Indore in not paying wages equal to the regular employee to Shri Bhupendra Pawar from March 1996 to 15-1-2005 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to claim for difference of wages equal to the wages paid to the regular employees. Though affidavit of evidence filed by workman, he remained absent for his cross examination. His evidence cannot be considered. Shri Ram Nagwanshi Union Representative submitted in writing not to give oral evidence.
6. Management filed affidavit of evidence of Lalit Mohan Sharma supporting whole contentions in Written Statement filed by management. That workman was engaged for cleaning sweeping work for 1-2 hours as casual employee. He is not eligible for equal wages paid to regular employees. In his cross examination, management's witness says he was not posted at MG Road branch during 1996 to 2005. He claims ignorance how much wages were paid to workman for working 1-2 hours in a day. The policy for payment of wages to sweepers, cleaners is not produced. Ist party was paid wages in name of regular employees by pay order. The documents regarding payment are not produced. Zerox copy of documents produced by Ist party are not proved by valid evidence. Admitted documents Exhibit W-1 pertains to information called by Dy.General Manager regarding qualification and payments made to workman, whether any permission was obtained from Central Office before engaging him. In Exhibit W-2, information submitted by Branch, earlier engagement of workman is shown from 96 till 10-3-04, wages paid Rs.30 per day in 1996, 40 per day in 1997. Exhibit W-3,4 is reply filed by management opposing claim of workman. Exhibit W-5 is application by management submitted to RLC requesting time. Exhibit W-6 affidavit of Ramdev submitted before RL devoted with daily wage employees working for 30 days is eligible for bonus. The document is not relevant for deciding claim for wages claimed by workman equal to regular employees. Exhibit W-7 is reply submitted before RLC opposing claim for daily wages by the management. Exhibit W-8 is copy of affidavit of management's witness Ramdev in R/1/09. Said copy of evidence doesnot support claim of workman for equal wages as paid to regular employees. Ist party has not produced any rules or settlements under which daily wage employee is entitled for wages on par with regular employees. Document P-4 produced on record pertains to payment of wages to cleaning staff as per the area of branch. The pleadings and documents produced by workman is silent about area of the branch. From above discussion, applicant's claim for wages equal to wages paid to regular employees is not established.
7. Learned counsel for management Shri Shrotri w.r.t. claim for equal wages relies on ratio held in case between-

State of Punjab and others versus Surinder Singh and another reported in 2007(13)SCC-231. Their Lordship dealing with parity of employment and principle of equal pay for equal work held daily wagger having not undergone process of regular selection cannot therefore compare himself with a regular employee. Such employee is not entitled to claim pay scale of regular incumbent.

In case between State of Haryana and another versus Tilak Raj and others reported in 2003(6)SCC-123. Their lordship dealing with above point held applicability of principle requires complete and wholesale identity between a group of employees claiming identical pay scales and others who have already earned such pay scales. It is for the claimant to substantiate a clear cut basis of equivalence and a resultant hostile discrimination. Problem about equal pay cannot always be translated into a mathematical formula.

Considering ratio in above cases, I record my finding in Point No.1 in Affirmative.
8. In the result, award is passed as under:-

(1) The action of the management of Bank of Rajasthan Ltd., Indore in not paying wages equal to the regular employee to Shri Bhupendra Pawar from March 1996 to 15-1-2005 is legal and proper.
(2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2192.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण पूर्वी रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचाट (संदर्भ संख्या 69/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-41012/177/2001—आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2192.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.69/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of South Eastern Railway and their workmen, received by the Central Government on 11.09.2017.

[No. L-41012/177/2001– IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****No. CGIT/LC/R/69/2002**

Shri B.S. Naidu, Branch Secretary,
South Eastern Railway Mens Union,
145, Keshwar Awas, Smritivan Turning Point,
Rajkishore Nagar, Bilaspur

... Workman/Union

Versus

The Sr. DEN,
South Eastern Railway,
Bilaspur Division, Bilaspur, CG

...Management

AWARD

Passed on this 4th day of August 2017

1. As per letter dated 19-4-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-41012/177/2001-IR(B-I). The dispute under reference relates to:
 “Whether the action of the management of S.E.Railway, Bilaspur in not providing services to Shri Deendayal, S/o Saligram with backwages is justified? If not, what relief the concerned workman is entitled?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/2 to 3/6. Case of Ist party is that he was engaged as gangman on 26-2-89. He was posted under PWI, Shahdol. After his appointment, he was sincerely working to satisfaction of his superiors. He was never punished. That FIR was lodged against him at police station, Shahdol alleging fabrication of documents and fraud to department. On report by GRP, he was prosecuted for offence under Section 417,419 IPC in criminal case No. 381/95. He was acquitted by JMFC Shahdol on 26-6-97. After his acquittal in criminal case, workman approached PWI Shahdol on 28-6-97 requesting to reinstate him in service. His application was accepted by clerk in PWI office Mr. W.A.Kris. however he was not allowed to join duty. Workman was continuously in correspondence with the authorities. However he was not allowed to join duty. Workman submits that after his acquittal in criminal case, no enquiry was initiated against him by the department. Action of management not permitting him to join duty is illegal. His services were terminated illegally, no retrenchment compensation was paid to him, termination of his service is in violation of Section 25-F of ID Act, Article 14,16, 311 of the constitution. On such ground, workman prays for his reinstatement with backwages.
3. 2nd party filed Written Statement opposing claim of workman. 2nd party management submits that workman was not engaged under PWI Shahdol on 26-2-89. That workman had confessed before JMFC Shahdol for purchasing appointment order for Rs.5000/-. Said amount was paid in two instalments to Shri Satnarayan master and Prasanna. That the workman appointed at Bilaspur where he worked for about a month with Surendra Pal. Workman had also stated before JMFC that he worked at Raipur as Gangman. Conciliation proceeding before ALC Shahdol workman claimed he was appointed at Raipur as Gangman on 26-2-89 and worked till 28-3-89. Thereafter he was transferred to PWI Shahdol. Documents produced by workman were subjected to verification from PWI, Raipur. It was found that no person by name of workman was transferred to Shahdol from PWI Raipur. GRP was advised to initiate the matter. GRP had taken necessary action against workman. In criminal case before JMFC Shahdol, documents submitted by workman were found not genuine, he procured order paying Rs.5000/-. The Assistant Engineer, Raipur was appraised before JMFC that no person by name of workman was transferred from Raipur. That after acquittal in

criminal case, workman produced judgment dated 28-6-97 in office of PWI. There is no question of allowing workman on duty as he is not bonafide Railway Servant. Order of acquittal bear no direction to engage him in service. There was no question of paying retrenchment compensation as workman was not bonafide worker of the department. On such ground, 2nd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of S.E.Railway, Bilaspur in not providing services to Shri Deendayal, S/o Saligram with backwages is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. Point No. 1- The term of reference pertains to management of SE.Railway not providing service to workman with backwages. As per pleadings of Ist party after acquittal in criminal case, he was not allowed to join duty. Copy of judgment in criminal case is produced at Exhibit W-1. Workman was acquitted offence under Section 468, 419, 471 of IPC. Workman did not participate in reference proceeding.
6. Evidence of workman was closed on 27-8-13. Management filed affidavit of evidence of Shri Prakash.A supporting contentions in Written Statement that workman was not engaged under PWI, Shahdol. Management's witness also remained absent for cross examination. Workman has failed to adduce evidence. Thus case of Ist party workman is of no evidence. Therefore the claim of workman cannot be established. For above reasons, I record my finding in Point No.1 in Affirmative.
7. In the result, award is passed as under:-
- (1) The action of the management of S.E.Railway, Bilaspur in not providing services to Shri Deendayal, S/o Saligram with backwages is proper and legal.
 - (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2193.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 63/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-12012/417/2001आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2193.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 63/2002) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11.09.2017.

[No. L-12012/417/2001- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/63/2002

Presiding Officer: SHRI R.B. PATLE

Shri Amarsingh Patel,
S/o Shri Ghanshyam Singh Patel,
R/o Madanmahal station,
Amanpur, Patel ka Bageecha,
Opp. Prem Nagar, Jabalpur (MP)

...Workman

Versus

Branch Manager,
State Bank of India,
City Branch, Ghamandi Chowk,
Jabalpur (MP)

Asstt. Manager, Region-I,
State Bank of India,
Zonal Office, Vijaynagar, Jabalpur

...Management

AWARD

Passed on this 3rd day of July, 2017

1. As per letter dated 4-4-2002 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/417/2001-IR(B-I). The dispute under reference relates to:

“Whether the action of Assistant General Manager, State Bank of India, Region-I, Regional Office, Jabalpur in terminating the services of Shri Amar Singh Patel, S/o Shri Ghanshyam Singh Patel Ex.Daftary w.e.f.9-3-98 after conducting departmental enquiry is legal and proper. If not, to what relief the workman is entitled to?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/17. Case of workman is that he was removed from service from post of Daftary. Chargesheet was issued to him on 28-4-95. Order of his removal was issued on 9-3-98. Appeal preferred by workman challenging order of his removal was rejected by non-speaking order. Ist party has reiterated that the ground in appeal were not considered. That he entered in service of the Bank on 3-7-69. There was no complaint about his working during past 30 years. Chargesheet was issued to him on 20-4-95 is vague on some false complaints against him. That 5 charges alleged against him can not be construed as misconduct as per Sastry Award. Charges alleged against him pertain to his unauthorized absence during working hours and illegal marking his attendance in the register over remarks leave by Branch Manager. Other charge pertain to purchase of furniture from Hind Furniture Mart for his personal use etc. He submitted reply to the chargesheet denying all charges against him. The contents that he did not commit any act amounts to misconduct. He had cordial relations with his superior officers, he never misbehaved with them. He not used unparliamentary language as alleged in the chargesheet. The management held enquiry against him appointing Enquiry Officer and Presenting Officer. Statement of claim is quite extensive. Workman claims that his reply to the chargesheet was not considered. That enquiry was not properly conducted. He was not given documents. Proper opportunity for his defence was not allowed. The findings of Enquiry Officer are perverse. Enquiry Officer violated principles of natural justice. Without issuing showcause notice, punishment was imposed against him. Disciplinary Authority was pre-determined. There was no evidence in Enquiry Proceedings to prove charges alleged against him. That he not admitted any charges.
3. Ist party further submits Enquiry Officer submitted his report holding that Charge No.1, 3 to 5 are proved against him on the basis of findings given by Enquiry Officer. Disciplinary Authority imposed punishment without considering his explanation. Punishment of removal imposed against him is arbitrary and illegal. Because of punishment imposed against him, his family members are left to starving. Above ground are repeated by workman that Enquiry Officer was biased and prejudiced against him. Non-consideration amounts to denial of justice and fair play. That charges alleged against him are not of serious nature. Punishment of removal imposed against him is illegal. Ist party workman has also narrated evidence w.r.t. specific charges and reiterates that the charges alleged against him are not proved. Enquiry Officer has committed error, Disciplinary Authority has confirmed findings of Enquiry Officer is illegal. Findings of Enquiry Officer are perverse. Punishment of removal against him is illegal. On such ground, workman prays for his reinstatement with backwages setting aside order of his dismissal.
4. 2nd party filed Written Statement at Page 6/1 to 6/8 opposing claim of workman. 2nd party submits that appeal preferred by workman challenging order of his removal was dismissed on 10-12-98. Workman was allowed reasonable opportunity for his defence. Order of punishment is not non-speaking order. Ist party workman was not properly discharging his duties. Without prior permission, he was submitting leave application, he used to remain unauthorized absent on several occasion he was marking his presence in Attendance Register. Workman used to left branch premises for long period. He was absent on 5-10-93, 12-10-93, 13-10-93, 14-10-93, 15-10-93. The Competent Authority had marked leave against his name in Attendance Register. On 16-10-93, workman came to the branch and removed comments of the authorities in Attendance Register. Workman was issued memos dated 6th, 8th October 1993, 12-2-94 and on various

other dates details given in Para-2 of the Written Statement. Workman had not replied to the memos. He was also involved in obtaining furnitures worth Rs.3170 from M/S Hind Furniture Mart. Under the pretext that furniture was required for Shahpura branch. Workman misbehaved with other officers of the branch. Chargesheet was issued to workman for various kinds of misconduct. Workman did not submit reply to the chargesheet. Shri R.K.Sanghi was appointed as Enquiry Officer, Shri L.P.Dubey as Presenting Officer. Workman was allowed Defence Assistant Vinod Pathak. Statements of 6 witnesses of management were recorded. All of them were cross-examined. Enquiry Officer submitted his report considering documentary oral evidence. Copy of report was sent to workman along with letter dated 11-10-97. Workman did not submit reply to the chargesheet. Enquiry Officer held workman guilty for charge No. 1,3 to 5. Management reiterates that workman was given opportunity for his defence. Management's witnesses were cross examined as per report submitted by Enquiry Officer in Charge No. 1,3 to 5. That removal of workman is illegal and arbitrary. The evidence w.r.t. charges is also referred in Written Statement. It is reiterated that punishment of removal imposed against workman is proper and legal. It is reiterated that order of removal doesnot suffer from any illegality. Management prays that reference be answered in its favour.

5. Vide order dated 5-5-14, enquiry conducted against workman is found legal.
6. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of Assistant General Manager, State Bank of India, Region-I, Regional Office, Jabalpur in terminating the services of Shri Amar Singh Patel, S/o Shri Ghanshyam Singh Patel Ex.Daftary w.e.f.9-3-98 is legal and proper?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

7. Point No.2- The term of reference pertains to legality of the termination of services of Ist party workman. Enquiry conducted against workman is found legal as per order dated 5-5-14. Question whether charges alleged against workman are proved requires to be decided from evidence in Enquiry Proceedings. Enquiry Officer submitted his report holding that Charge No.2 alleged against workman is not proved. Charge No.1,3 to 5 are found proved by Enquiry Officer. Charge No. against workman pertains to his absence on 5th, 12, 13th, 14th, 15th October 1993. Endorsement of leave was recorded in leave register. On 16-10-93, workman had made his initials on leave endorsement. Charge No.2 pertains to 7 memos of different dates were not replied by him. Enquiry Officer held that Charge No.2 is not proved. Charge No.3 pertains to workman unauthorisely remaining absent on 10-8-94, his explanation as called on 11-8-94. Workman did not submit his reply. Charge No.4 pertains to illegal purchase of furniture from Hind Furniture worth Rs.3170. Charge No.5 pertains to on 17-6-92, workman had misbehaved with his superiors and officers. He did not reply to memo. That workman had misbehaved with Shri S.P.Mishra. Exhibit M-3-1 is chargesheet issued to workman. Record of Enquiry Proceedings is produced at Exhibit ME-3(5). Workman in Enquiry Proceeding at Page 4 had admitted genuiness of documents produced by Presenting Officer. Documents were marked Exhibit PX-1 to PX-17. As such it is clear that genuineness of documents was not in dispute. Statement of management's witness No.1 R.K.sanghi representative of management was recorded w.r.t. documents PX-1 to 17. Statements of MW- Chari, PW-2 Ram Kumar Yadav were recorded. Bank's representative Sanghi was changed, in his place, S.P.Dubey was appointed. The statements of witness No.3 Ramesh Upadhyay, Witness No.4 S.P.Mishra were recorded in enquiry. Re-examination of witness No.1 & 3 was also recorded. All witnesses were cross-examined. Precise statement of Witness No.1 Chari is on the pint that on 16-2-95(Noon) workman was not present in the branch at 4.30 pm. Shri S.P.Mishra officiating accountant had made endorsement about absence of workman from duty. He further says on that day behaviour of workman was exhibiting displeasure. Memo was issued to workman, no reply was given by him to it. Witness No.2 Ram Kumar Yadav in his statement says that on 17-6-92, 10.14 AM, he asked CSE to work in cash section. On that the CSE said that he was working as Daftary, he would talk about the work with the officer. Ram Kumar did not recollect whether order in writing was given to CSE. Witness No.1 in his cross examination says on 10-8-94, CSE appeared in branch and writing time of duty had gone out of branch. Memo was issued to CSE on 11-8-94. Witness No.2 in his re-examination says on 5-10-93, 12th to 15th October, workman remained absent. On 16th October, he had made endorsement over endorsement of leave. Witness No.2 further says on 17-6-92, as there was shortage of messenger staff, he asked CSE to work in cash section. Witness No.3 Ramesh Upadhyay in his statement in enquiry says he submitted complaint against CSE on 16-2-95 to the Branch Manager. CSE had

used unparliamentary language. Said incident occurred between 10.45 to 11 AM. Witness says CSE was standing in vision in hall of the branch. He submitted said complaint of his will.

8. Witness No.4 Mishra in his statement in Enquiry Proceedings says he was working as Accountant at relevant time. On 15-2-95, CSE had attended branch around 0.45 AM. In his statement in Enquiry Proceedings, he says that from Nayak Ram Kumar Yadav, he had come to know that CSE was absent in the branch. He called Ram Kumar Yadav and asked where was CSE as draft vouchers and issue books were required. He did not receives the documents. He made endorsement in attendance register about absence of CSE. The evidence of witness No.5 Deshpande Branch Manager also corroborate that the workman was remaining absent from branch on many occasions. Memos were issued to him. Witness No.6 Mahendra Tiwari in his statement in Enquiry Proceedings claims ignorance about defence of his name in complaint PEX-17. Management's witnesses were thoroughly cross examined. There are few inconsistencies with respect to the incharge of record, key of record room remaining with accountant. Ramesh Kumar Upadhyay had made endorsement in Attendance Register about absence of workman. However evidence of management's witness No.5 Deshpande fully corroborates evidence of all other witnesses about workman leaving branch office during working hours and issuing memos. Evidence of witness No.4 S.P.Mishra and witness No.3 Ravendra Upadhyay is consistent about workman using unparliamentary language against Shri S.P.Mishra Accountant- “यदि गांड में दम हो तो हमें नौकरी से निकलवा दें, अगर दम थी तो हाजिरी रजिस्टर में लिखकर काटा क्यों” Certainly use of such language is unparliamentary. workman had left office after writing time of joining. evidence of witness of the management about purchase of furniture, bill received from Hind Furniture Mart, amount was not paid by CSE. Furniture was purchased in name of bank is corroborated. Re-appreciation of evidence is not permissible as per ratio held in case between-State Bank of India and others versus Ramesh Dinkar Punde reported in 2006(7)SCC-212 relied by Shri Vijay Tripathi.

Shri Vijay Tripathi also relies on ratio held in case between Syndicate Bank and others versus Venkatesh Gururao Kurati reported in 2006(3)SCC-150 pertains to violation of natural justice or account of non-supply of documents.

Ratio held in above cited case cannot be applied at this stage as enquiry is already held proper and legal. In view of the facts discussed above, I record my finding in Point No.1 that Charge No.1,3 to 5 are proved against workman.

9. Point No.2- In view of my finding in Point No.1 that Charge No.1, 3 to 5 are proved, question remains for consideration whether punishment of removal/ dismissal against workman is proper and legal. Charges proved against workman pertains to absence of workman on 5th, 12th to 5th October 1993. The statement of management's witness in enquiry shows that CSE was not paid pay for above period. Charge No.2 is not proved. Charge No.3 pertains to absence for one day. Charge No.4 & 5 pertains to using unparliamentary language and purchasing furniture in name of the branch. Workman not paid amount of bill. Proved charges 1, 3 for absence of short period would not justify dismissal or removal of workman. Other proved charges of using unparliamentary language and purchasing furniture worth Rs.3170 and bill was issued. Workman had not paid bill. When bill was issued in name of workman, Hind Furniture should have claimed said amount from CSE. Non-payment of amount of bill would not justify punishment of removal to CSE.

10. Learned counsel for 2nd party relied on ratio held in case between-

Divisional Controller, NEKRTC versus H.Amaresh reported in 2006(6)SCC-187. In above cited case, for misappropriation of amount of Rs.360.90 by conductor, punishment of dismissal was upheld.

In case between State of Maharashtra and another versus Madhukar Narayan Kardikar reported in 1991(1)SCC-57. Their Lordship held re-appreciation of evidence as if it were in appeal against decision of departmental authorities. The facts of present case are not comparable.

Workman had not used amount of the Bank for purchase of furniture. Hind Furniture Mart could have recovered amount from workman. Considering evidence it cannot be said that workman had misappropriated amount of Bank. Workman was in service since 1969. Punishment of removal imposed against workman appears harsh and disproportionate to the proved charge. Instead of punishment of removal, punishment of compulsory retirement of CSE will be appropriate. For above reasons, I record my finding in Point No.2 in Negative.

11. In the result, award is passed as under:-

- (1) The action of Assistant General Manager, State Bank of India, Region-I, Regional Office, Jabalpur in terminating the services of Shri Amar Singh Patel, S/o Shri Ghanshyam Singh Patel Ex.Daftary w.e.f.9-3-98 is not proper and legal.
- (2) Punishment of dismissal/ removal of workman is modified to compulsory retirement.
- (3) 2nd party management is directed to pay all retiral benefits to workman.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2194.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 134/95) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-41012/9/2005-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2194.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.134/95) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Ahmedabad* as shown in the Annexure, in the industrial dispute between the management of West Central Railway and their workmen, received by the Central Government on 11.09.2017.

[No. L-41012/9/2005-IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

No. CGIT/LC/R/134/95

Shri Mahinder Kumar,
S/o Shri Kirhori Lal,
Rajender Nagar, Gali No.16, Satna (MP)

... Workman

Versus

Divisional Railway Manager,
West Central Railway, Jabalpur

...Management

AWARD

Passed on this 11th day of July, 2017

1. As per letter dated 5-12-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-41012/9/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of West Central Railway, Jabalpur in terminating the services of Shri Mahendra Kumar S/o Shri kishorilal w.e.f. 14-8-89 is justified or not? If not, what relief he is entitled to and from which date?”
2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/ to 3/3. Case of workman is on 7-0-82, he was appointed as sweeper. He was continuously working till 14-8-82 under PWI Satna. Service card No. 54983 was issued to him. He was working continuously from 7-10-82 to 14-8-89. He was not served with notice, retrenchment compensation was not paid to him. At the time of terminating service, he was given assurance for engagement in future. In special recruitment undertaken on 12-3-96, workman submitted his application but he was not appointed. The employees working with him were regularized in 2001. Workman had submitted application but he was given oral assurances for absorption. Workman reiterates that he completed more than 240 days continuous service during each of the year. His services are terminated without notice. Retrenchment compensation

was not paid to him. Policy of last come first go was not followed. Management violated Section 25 H of ID Act. On such ground, workman prays for his reinstatement with backwages.

3. Management filed Written Statement opposing claim of workman. Preliminary objection is raised that dispute is raised after 17 years is not tenable. Ratio held in the case between Nedungadi Bank Ltd is referred. It is further submitted that services of casual labours are covered under Chapter 20 of Railway Manual Para 2001(I) is reproduced. That casual labour who continues to do same work for which they are engaged for more than 120 days without break to be treated as temporary. It is submitted that workman not completed 240 or 120 days continuous service. Workman was not appointed as regular employee following recruitment policy of the Railway. Workman was initially deployed on 7-10-82. His date of birth is 22-12-63. As per letter dated 10-12-84 issued by Railway Board, casual labours are not engaged without sanction of General Manager. That the casual card produced by workman is fake and fabricated. Card No.54893 was not issued to him. That during 1-6-85 to 19-10-88, workman was deployed in broken period. Persons deployed as substitute, their engagement is casual, their services in one unit is not counted in other unit. 2nd party reiterates that 2nd party not completed 240 days service. His engagement for few days was as per requirement. Workman is not entitled to any relief.
4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of West Central Railway, Jabalpur in terminating the services of Shri Mahendra Kumar S/o Shri kishorilal w.e.f. 14-8-89 is justified or not?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

5. The term of reference pertains to legality of termination of services of workman. Though workman has pleaded that he was not appointed in recruitment drive of 1996 , 2001, the pleadings on above point are beyond the terms of reference.
6. Workman filed affidavit of his evidence supporting his contentions that he was continuously working with 2nd party from 7-10-82 to 14-8-89. He completed more than 240 days service during each of the year. He was issued service card No.45983. His services were orally terminated. He was not appointed in special drive of 1996. From his evidence, documents Exhibit W-1,2 are admitted in evidence. In his cross examination, workman says he had last attended duty on 14-8-89. He was unable to tell date of issuing notice through Advocate how notice was sent through his Advocate. He was unable to tell name of officer engaged him in service. He not submitted application, any examination was not held. He was not interviewed. Appointment letter was not issued to him. He received wages for his working days. Initially he was paid Rs.17 per day. Whenever work was available, he was told. He had not deposited amount for service card. After termination of his service in 1989, he raised dispute in the year 2005. He did not remember how many days he worked in the year 1989.
7. Management filed affidavit of evidence of Shri Durga Singh Patel supporting contentions in Written Statement filed by management reiterating that workman was not appointed as regular employee. Workman had not continuously worked for 120 days or 240 days in calendar year. That Service Card No. 54983 produced by workman is fake. Evidence of management's witness M-1,2/1 to 2/2, M-3 are admitted in evidence. Management's witness in his cross says he is not personally acquainted with workman. He did not work under him. As per entries in live register, Ist party had worked intermittently as casual labour during 1982 to 1989. Workman was paid wages for his working days. Entries of payment were taken in pay register. The pay register is destroyed, same could not be produced. Entries of attendance used to be taken in casual card. The witness of management was unable to tell when pay register was destroyed. Any document about destruction of pay register is not produced. He had made enquiry as per direction of Personal Officer about casual card of workman. Said order is not produced on record. The report in that regard is also not produced. Page 46 of casual live register doesnot bear signature. Witness explained that same entries were recorded at page 38. Therefore no signature is appearing on it. Workman was not served notice of termination, retrenchment compensation was not paid to him. Witness of management was unable to tell how many days workman had worked in particular year. Documents casual card produced by Ist party workman had worked for 138 days during the period 19-9-87 till 9-0-88 and intermittent working till 14-8-89. Entries in Exhibit W-1 doesnot show workman was continuously working for 240 days preceding 12 months of his termination. Exhibit W-2 is legal notice issued through Advocate. Exhibit M-1 is produced by management regarding rules for destruction of documents. Exhibit W-2/1 to 2 entries in live

register shows working days of Ist party workman till 4-2-88. This entry also not support claim of workman that he was working 240 days preceding termination of his service on 14-8-89. Evidence on record is not sufficient to establish 240 days continuous service by Ist party workman. He is not entitled to protection of Section 25-F of ID Act.

8. Learned counsel for 2nd party Shri A.K.Shashi relies on ratio held in case between-

Surendra Nagar District Panchayat versus Dahyabhai Amarsingh reported in 2005(8)SCC-750. Their Lordship held that claim of workman for protection under Section 25-F workman must establish their existing relationship of employer and employee. Workman under Section 2(s) of ID Act, establishment under which he is employed is an Industry. That he has proved one year continuous service. The burden of proving 240 days continuous service lies on workman.

Shri A.K. Shashi also submits that dispute is raised after 7 years is not tenable. In support of it, reliance is placed in ratio held in case between-

Chandrappagol AG versus Assistant Executive Engineer, Ghataprabha Right Bank Canal Construction reported in 2004-II-LLJ-460. Their Lordship dealing with the question of delay held dispute raised after lapse of about 7 years, dispute cease to exist.

In case been Nedungadi Bank Ltd. versus K.P.Madhavankutty ad others reported in 2000-I-LLJ-561. Their Lordship considering delay of 7 years held no industrial dispute exist or apprehended.

In case between Assistant Executive Engineer, Karnataka versus Shivalinga reported in 2002-I-LLJ-457. Their Lordship considering delay of 9 years in approaching Labour Officer held delay was held fatal to case.

9. In this point, Shri K.B.Singh for workman relies on ratio held in case between

Shahaji versus Executive Engineer, PWD reported in 2007(5)FLR675. Their Lordship dealing with delay of 16 years following ratio held in Ajaib Singh case held relief could be moulded considering the delay in raising dispute.

However even if ratio in Shahaji case 2007(15)FLR-675 is applied, it cannot be overlooked that the workman has to establish 240 days continuous service 12 months preceding his termination. From evidence discussed above, workman has not established 240 days continuous service tendered by him preceding 12 months of his termination. Therefore I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of West Central Railway, Jabalpur in terminating the services of Shri Mahendra Kumar S/o Shri kishorilal w.e.f. 14-8-89 is proper and legal.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2017

का.आ. 2195.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकारी मध्य रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 243/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.09.2017 को प्राप्त हुआ था।

[सं. एल-41012/128/92-आई आर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 11th September, 2017

S.O. 2195.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 243/93) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Jabalpur as shown in the Annexure, in the industrial dispute between the management of Central Railway and their workmen, received by the Central Government on 11.09.2017.

[No. L-41012/128/92- IR(B-1)]

B.S. BISHT, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****No. CGIT/LC/R/243/93****Presiding Officer:** SHRI R.B. PATLE

Shri Mohan,
S/o Shri Ramcharan,
Near shiv Mandir,
12 Block, Rly. Colony, Harda (MP)

...Workman

Versus

Chief Health Inspector,
Central Railway, Itarsi

PWI(S),
Central Railway, Harda (MP)

...Management

AWARDPassed on this 16th day of June 2017

- As per letter dated 7-12-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-41012/128/92-IR(DU). The dispute under reference relates to:
“Whether the action of the management of Divisional Railway Manager, Central Railway, Bhopal in terminating the services of Shri Mohan, S/o Shri Ramcharan, Safaiwala w.e.f. 1-10-87 is justified? If not, what relief the workman concerned is entitled to?”
- Award dated 9-8-14 is set aside by Hon’ble High Court in Writ Petition No. 1918/2015 and matter is remanded back allowing one more opportunity to adduce evidence by workman.
- After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/6. Case of Ist party workman is that he was engaged as sweeper by Station Master from 2nd June 1980. He was working at Charkheda Loco Foreman Itarsi till October 1987. He had worked with devotion. Certificate about his working was issued on 26-2-81 by Foreman Harda. As per letter dated 12-3-81, workman was directed to work with AEN, Khandwa. Service card was not issued to him despite of repeated correspondence. That certificate about working for 232 days was issued by the authority that he was continuously working from 2-6-90 to 1-10-87 for 8 years. He completed 240 days continuous service. His services were discontinued without notice or conducting any enquiry in violation of the law. He raised dispute between ALC, Bhopal. Failure report was submitted to Government. The dispute is referred by Govt. workman submits that he is illegally terminated by IInd party. Workman prays for reinstatement with back wages.
- IInd party filed Written Statement at page 6/1 to 6/2. IInd party submits that workman be put to strictly prove his contentions. All material contentions of workman are denied. It is denied that workman was promoted in violation of provisions of I.D.Act. The dispute raised after delay is not tenable. IInd party prayed for rejection of claim.
- Workman filed rejoinder at page 7/1 to 7/3 reiterating his contentions in statement of claim. Workman submits that he had filed original application 49/90 before CAT, Jabalpur. IInd party had denied his contentions in statement of claim without reasons. Workman denies that dispute is raised after delay.
- After amendment in statement of claim, IInd party filed additional Written Statement contenting that workman himself left services. There was no question of paying retrenchment compensation.
- Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the action of the management of Divisional Railway Manager, Central Railway, Bhopal in terminating the services of Shri Mohan, S/o Shri Ramcharan, Safaiwala w.e.f. 1-10-87 is justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?”	Workman is not entitled to relief claimed by him.

REASONS

8. Workman is challenging termination of his service for violation of provisions of I.D. Act. His services were terminated without notice, no retrenchment compensation was paid to him. Workman filed affidavit of his evidence supporting his contentions in statement of claim. Despite workman was allowed opportunity to adduce evidence, workman has failed to appear for his cross-examination. Evidence of workman therefore could not be considered. As workman has failed to adduce valid evidence in support of his claim, I record my finding in Point No.1 in Affirmative.
9. In the result, award is passed as under:-
 - (1) The action of the management of Divisional Railway Manager, Central Railway, Bhopal in terminating the services of Shri Mohan, S/o Shri Ramcharan, Safaiwala w.e.f. 1-10-87 is legal and proper.
 - (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2017

का.आ. 2196.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 2/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.09.2017 को प्राप्त हुआ था।

[सं. एल-22012/400/1993-आई. आर. (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th September, 2017

S.O. 2196.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 2/1994 of the *Indus Tribunal-cum-Labour Court KOTA* as shown in the Annexure, in the industrial dispute between the management of *Food Corporation of India*, and their workmen, received by the Central Government on 08.09.2017

[No. L-22012/400/1993 - IR(C-II)]

RAJENDER SINGH, Section Officer

अनुबंध**न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)**

पीठासीन अधिकारी— श्री जगमोहन शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक: औ. न्या. (केन्द्रीय)-2/1994 दिनांक स्थापित: 25/3/94

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश

क्रं.एल-22012/400/एफ/93-आईआर(सी-II)

दिनांक 21/3/1994

निर्देश/विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क)औद्योगिक विवाद अधिनियम, 1947**मध्य**

राजेन्द्र प्रसाद बैरवा पुत्र मूलचन्द बैरवा निवासी ग्राम मढेरडा,

पोस्ट खटुपुरा जिला सवाईमाधोपुर (राजस्थान)।

...प्रार्थी श्रमिक

एवं

1. वरिष्ठ क्षेत्रीय प्रबन्धक, भारतीय खाद्य निगम, सी स्कीम, जयपुर।
2. मण्डल प्रबन्धक, भारतीय खाद्य निगम, कोटा।

...अप्रार्थीगण नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि	:	श्री पुरुषोत्तम दाधीच
अप्रार्थीगण नियोजक की ओर से प्रतिनिधि	:	श्री सी.बी. सोरल

अधिनिर्णय दिनांक: 27.1.2017

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 21/3/1994 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)घ) एवं उपधारा 2(क) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:-

"क्या प्रबंधतंत्र-भारतीय खाद्य निगम- मार्फत उनके अधिकारी- वरिष्ठ क्षेत्रीय प्रबंधक, जयपुर एवं मण्डल प्रबंधक, कोटा द्वारा कर्मकार श्री राजेन्द्र प्रसाद बैरवा पुत्र श्री मूलचन्द बैरवा के स्थान पर श्री राजेन्द्र कुमार जागा का स्थायीकरण करने एवं कर्मकार की सेवायें समाप्त करने की कार्यवाही उचित एवं न्यायसंगत है? यदि नहीं, तो कर्मकार किस अनुतोष का हकदार है और किस तारीख से?"

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना/नोटिस जारी कर विधिवत अवगत करवाया गया।

3. प्रार्थी श्रमिक की ओर से क्लेम स्टेटमेन्ट न्यायाधिकरण के समक्ष प्रस्तुत कर व्यक्त किया गया है कि प्रार्थी को हरकचन्द्र बंसल एण्ड कंपनी कांटेक्टर के जरिये अप्रार्थी नियोजक क्रम-1 वरिष्ठ क्षेत्रीय प्रबंधक, भारतीय खाद्य निगम, सी स्कीम, जयपुर ने भारतीय खाद्य निगम (बम्फर कॉम्प्लेक्स) बाईस गोदाम, सवाईमाधोपुर में वर्ष 1986 में सेवा में नियोजित किया था तथा उसके कार्य पर नियंत्रण अप्रार्थी क्रम-2 मण्डल प्रबंधक, भारतीय खाद्य निगम, कोटा का था एवं उसके कार्य पर हरकचन्द्र एण्ड बंसल कंपनी का कभी कोई नियंत्रण नहीं रहा। 1/8/91 से अप्रार्थी निगम में ठेकेदारी प्रथा को समाप्त किये जाने के निर्णय के साथ निगम में कार्य करने वाले ऐसे कर्मचारियों को स्थायी किया जाना तय करने से प्रार्थी को भी 1/8/91 से स्थायी घोषित कर दिया गया, किन्तु ऐसी स्थायीकरण की सूची में हेराफेरी करके प्रार्थी से कनिष्ठ अन्य श्रमिकगण को सूची में घुसाकर प्रार्थी के स्थान पर श्यामलाल जागा जोकि निगम में कैंटीन चलाता था, ने अप्रार्थी निगम से सांठगांठ करके प्रार्थी के स्थान पर राजेन्द्र कुमार जागा को स्थायी नियुक्ति दे दी व प्रार्थी सहित अन्य श्रमिकगण को दिनांक 11/2/92 को नौकरी से हटा दिया गया। अन्त में प्रार्थना की गयी है कि अप्रार्थीगण नियोजक की उक्त कार्यवाही अनुचित घोषित करते हुए प्रार्थी को पिछले सम्पूर्ण वेतन व अन्य समस्त सेवा लाभों सहित सेवा में बहाल किये जाने का अनुतोष प्रदान किया जावे।

4. अप्रार्थीगण की ओर से उक्त क्लेम का जवाब प्रस्तुत कर व्यक्त किया गया है कि प्रार्थी व अप्रार्थीगण के मध्य किसी भी प्रकार से औ.वि.उत्पन्न नहीं होता है और ना अधिनियमान्तर्गत प्रार्थी श्रमिक की परिभाषा में ही आता है। उनके या कथित ठेकेदार के द्वारा प्रार्थी को कभी नियुक्ति या सेवा से पृथक्ता का आदेश नहीं दिया गया। अप्रार्थीगण द्वारा अपनायी गयी किसी भी प्रबन्धकीय आन्तरिक कार्य प्रणाली के सम्बन्ध में किसी भी तरह का कोई आक्षेप या आपत्ति उठाने का कोई विधिक अधिकार प्रार्थी को नहीं है। प्रार्थी ने कभी कार्य की निरन्तरता नहीं बनायी, ना उसका नाम कभी अन्तिम विभागीयकृत सूची में आया इसलिए उसका स्थायीकरण किये जाने का कोई प्रश्न ही उत्पन्न नहीं होता। अन्त में क्लेम प्रार्थी निराधार होने से सव्यय निरस्त किये जाने की प्रार्थना की गयी है।

5. साक्ष्य में स्वयं प्रार्थी राजेन्द्र प्रसाद बैरवा व अप्रार्थी पक्ष की ओर से साक्षी सीताराम शर्मा, रामेश्वर प्रसाद कुशवाहा पूर्व सहायक प्रबन्धकगण के शपथ-पत्र प्रस्तुत किये गये हैं, जिनसे दोनों पक्षों के प्रतिनिधिगण द्वारा एक-दूसरे पक्ष के शपथ-पत्रों पर जिरह की गयी। उभयपक्ष की ओर से प्रलेखीय साक्ष्य भी प्रस्तुत की गयी।

6. विद्वान प्रतिनिधि पक्षकारान की बहस अन्तिम सुनी गयी व पत्रावली का अवलोकन किया गया। दौरान बहस न्यायाधिकरण के समक्ष यह तथ्य जानकारी में आया है कि सम्प्रेषित निर्देश/रेफ्रेन्स में अप्रार्थीगण नियोजक द्वारा प्रार्थी राजेन्द्र प्रसाद बैरवा के स्थान पर राजेन्द्र कुमार जागा का कौन सी तिथि से स्थायीकरण करने व कौनसी तिथि से प्रार्थी कर्मकार की सेवायें समाप्त करने की कार्यवाही की गयी है, इन तिथि का कोई उल्लेख नहीं है। अतः इन परिस्थितियों में यह न्यायाधिकरण अप्रार्थीगण नियोजक द्वारा प्रार्थी राजेन्द्र प्रसाद बैरवा के स्थान पर राजेन्द्र कुमार जागा का कौनसी तिथि से स्थायीकरण करने व प्रार्थी कर्मकार की सेवायें कौनसी तिथि से समाप्त करने की तिथि मानकर, अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राज. उच्च न्यायालय द्वारा पारित न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपान्तरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहाँ निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों द्वारा ऐसी तिथि सुझावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा से मुक्ति, पृथक या हटाने की तिथि का कोई अंकन नहीं है व दोनों ही पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं हो जाता है। इस न्यायनिर्णय के पेरा सं.11 में माननीय उच्चतम न्यायालय द्वारा "मदनपालसिंह बनाम उत्तरप्रदेश राज्य व अन्य—एआईआर 2000 एस.सी. 537" के निर्णय को विवेचित किया गया है तथा अन्त में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिन्दुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परन्तु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

7. अब यह न्यायाधिकरण हस्तगत निर्देश/रेफ्रेन्स में अप्रार्थीगण नियोजक द्वारा प्रार्थी राजेन्द्र प्रसाद बैरवा के स्थान पर राजेन्द्र कुमार जागा का कौनसी तिथि से स्थायीकरण करने व प्रार्थी कर्मकार की सेवायें कौन सी तिथि से समाप्त करने की तिथि मानकर, अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? तथा क्या यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने की अधिकारिता रखता है? इस सम्बन्ध में माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" के पेरा संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा रेफ्रेन्स के निबन्धन या सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गयी है:—

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend /alter the terms of the reference or mention the date of termination etc., or proceed with the reference and accepting the date of termination as suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

8. अतः माननीय राज. उच्च न्यायालय द्वारा पारित उपरोक्त न्यायदृष्टांत के प्रकाश में हस्तगत मामले में यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि/नाम आदि को संशोधित तिथि/नाम मानकर प्रकरण को गुणावगुण पर निस्तारित किये जाने की अधिकारिता नहीं रखता है। इस प्रकार माननीय उच्चतम एवं माननीय उच्च न्यायालय द्वारा ऊपर विवेचित किये गये न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार हस्तगत प्रकरण

में इस न्यायाधिकरण को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किये जाने की अधिकारिता नहीं होने से इस न्यायाधिकरण की राय में यह न्यायाधिकरण यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी न्यायाधिकरण को निर्देश अधिनिर्णित करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पायी जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायाधिकरण आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायाधिकरण की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/रेफ्रेन्स में अप्रार्थीगण नियोजक द्वारा प्रार्थी राजेन्द्र प्रसाद बैरवा के स्थान पर राजेन्द्र कुमार जागा का कौन सी तिथि से स्थायीकरण करने व कौन सी तिथि से प्रार्थी कर्मकार की सेवायें समाप्त करने की कार्यवाही की गयी है, इन तिथि का कोई अंकन नहीं होने से यह न्यायाधिकरण ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सक्षम सरकार से इस बाबत निर्देश/रेफ्रेन्स में संशोधन कराकर न्यायाधिकरण में पेश करते हैं तो न्यायाधिकरण ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार कार्यवाही कर सकेगा, परन्तु इस प्रक्रम पर फिलहाल यह मामला इस न्यायाधिकरण के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 21/3/1994 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डब्ल्यू.एल.सी.(राज.)यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में प्रतिपादित सिद्धांत के अनुसरण में हस्तगत निर्देश/रेफ्रेन्स में वर्णित अप्रार्थी नियोजक द्वारा प्रार्थी राजेन्द्र प्रसाद बैरवा के स्थान पर राजेन्द्र कुमार जागा का कौनसी तिथि से स्थायीकरण करने व कौनसी तिथि से प्रार्थी कर्मकार की सेवायें समाप्त करने की कार्यवाही की गयी है, इन तिथि का कोई अंकन नहीं होने से व इस न्यायाधिकरण को पक्षकारों द्वारा सुझायी गयी तिथि को स्वीकार किये जाने की अधिकारिता नहीं होने से हस्तगत निर्देश/रेफ्रेन्स में अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से उक्त तिथि बाबत निर्देश/रेफ्रेन्स में संशोधन/अंकन कराकर न्यायाधिकरण के समक्ष पेश करेंगे तो न्यायाधिकरण गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा।

जगमोहन शर्मा, न्यायाधीश

नई दिल्ली, 12 सितम्बर, 2017

का.आ. 2197.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार प्रिंसिपल, एटॉमिक एनर्जी, सेंट्रल स्कूल नं. 3, कोटा और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ संख्या 4/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.09.2017 को प्राप्त हुआ था।

[सं. एल. 42012/120/2003—आई. आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th September, 2017

S.O. 2197.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 4/2004 of the *Indus.Tribunal-cum-Labour Court KOTA* as shown in the Annexure, in the industrial dispute between the management of *Principal, Atomic Energy, Central School No.3, Kota* and their workmen, received by the Central Government on 08.09.2017

[No. L-42012/120/2003 - IR(CM-II)]

RAJENDER SINGH, Section Officer

अनुबंध**न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा, (राज.)**

पीठासीन अधिकारी— श्री जगमोहन शर्मा, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक:औ.न्या.(केन्द्रीय)—4 / 2004

दिनांक स्थापित:17 / 5 / 04

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश

क्र. एल-42012 / 120 / 2003-आईआर (सीएम-II) दनांक 8 / 4 / 2004

निर्देश / विवाद अन्तर्गत धारा 10(1)(घ) एवं उपधारा 2(क)

औद्योगिक विवाद अधिनियम, 1947

मध्य

गिरधारी लाल परमार पुत्र जीवाराम, हाट चौक,
बस स्टेण्ड, रावतभाटा, कोटा।

...प्रार्थी श्रमिक

एवं

प्रिंसिपल, एटोमिक एनर्जी, सेन्ट्रल स्कूल नं. 3, रावतभाटा, कोटा।

...अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक की ओर से प्रतिनिधि:—

अप्रार्थी नियोजक की ओर से प्रतिनिधि:—

अधिनिर्णय दिनांक: 14.12.2016

कोई उपस्थित नहीं

श्री वी.के.जैन

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के प्रासांगिक आदेश दिनांक 8 / 4 / 2004 के जरिये निम्न निर्देश विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1)(घ) एवं उपधारा 2(क) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है:—

"Whether the action of the Principal, Atomic Energy Central School No.3, Rawatbhata in terminating the services of Shri Girdhari Lal Parmar is legal and justified? If not, to what relief he is entitled?"

2. निर्देश / विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना / नोटिस जारी कर विधिवत अवगत करवाया गया।

3. प्रार्थी श्रमिक की ओर से क्लेम स्टेटमेन्ट न्यायाधिकरण के समक्ष प्रस्तुत कर व्यक्त किया गया है कि उसे न्यूक्लियर पावर कोरपोरेशन लि. एवं परमाणु उर्जा विभाग द्वारा गठित स्कूल समिति द्वारा संचालित स्कूल में दि. 1 / 8 / 86 से दैनिक वेतन पर लेब असि. के पद पर नियुक्त किया गया था। प्रार्थी ने वर्ष 87 से 95 तक बकाया मजदूरी, नियमितकरण व 1 / 8 / 95 से 30 / 6 / 01 तक न्यूनतम वेतन की मांग की तो उसे 1 / 7 / 01 से सेवा से हटा दिया गया। इस प्रकार प्रार्थी द्वारा दि. 1 / 8 / 86 से 30 / 6 / 01 तक निरन्तर कार्य कर लेने व एक कलेण्डर वर्ष में 240 दिन से अधिक कार्य कर लेने के पश्चात भी अधिनियम के आज्ञापक प्रावधानों की पालना किये बगैर दि. 1 / 7 / 01 से सेवा से पृथक करना अवैधानिक है। अन्त में उसे दि. 1 / 7 / 01 से सेवा से अलेहदगी का आदेश निरस्त करते हुए 1 / 8 / 86 से निरन्तर सेवा में मानते हुए बकाया वेतन, मजदूरी व पदोन्नति लाभ आदि अप्रार्थी से दिलाये जाने की प्रार्थना की गयी है।

4. उपरोक्त क्लेम स्टेटमेन्ट का जवाब प्रस्तुत करते हुए अप्रार्थी की ओर से व्यक्त किया गया है कि प्रार्थी ने 1/8/86 से दिसम्बर, 87 तक एटामिक एनर्जी सेन्ट्रल स्कूल नं.3, रावतभाटा में काम किया है जिस सम्बन्ध में तत्कालीन रापविप स्कूल के वेतन बिल रेकार्ड से जाँचने पर पाया गया कि प्रार्थी को आरएपीपी स्कूल से नियमित अथवा दैनिक वेतन भोगी के रूप में कोई भुगतान नहीं किया गया। वर्ष 86-87 में एवं एटामिक एनर्जी सेन्ट्रल स्कूल नं. 3 ने अगस्त 87 से शुरू होने के बाद प्रार्थी नाम के किसी आदमी को अस्थाई, तदर्थ, दैनिक वेतन भोगी या नियमित रूप में कार्य करने बाबत कोई भुगतान नहीं किया। प्रार्थी ने तत्कालीन आरएपीपी स्कूल में 1/8/86 से 28/3/87 तक दैनिक वेतन भोगी लेब असि. के रूप में काम किया था जिसका भुगतान उसे कर दिया गया होगा व उसके द्वारा उक्त अवधि में 240 दिन पूर्ण कार्य नहीं किया गया। उक्त स्कूल आरएपीपी प्राधिकारियों द्वारा 3/8/87 से स्थाई रूप से बंद कर दिया गया और सभी नियमित कर्मचारियों की सेवायें समाप्त कर दी गयी। अन्त में प्रार्थी का क्लेम आधारहीन व बिना दस्तावेजी प्रमाण के होने के कारण सब्यय निरस्त किये जाने की प्रार्थना की गयी है।

5. साक्ष्य में प्रार्थी श्रमिक गिरधारीलाल परमार का शपथ-पत्र प्रस्तुत किया गया, जिरह अप्रार्थी पक्ष द्वारा की गयी।

6. दौरान विचारण दि. 20/2/15 को प्रार्थी प्रतिनिधि द्वारा प्रार्थी श्रमिक गिरधारीलाल परमार की मृत्यु हो जाना प्रकट करते हुए कायममुकामान का प्रार्थना-पत्र पेश करने का अवसर चाहने पर समय दिया जाकर पत्रावली में 3/7/15 नियत की गयी, परन्तु इस तिथि से लेकर आज की तिथि तक कई अवसर लिये जाने के उपरान्त भी प्रार्थी पक्ष की ओर से कायममुकामान बाबत कोई प्रार्थना-पत्र प्रस्तुत नहीं किया गया व ना ही आज उपस्थित होकर कोई युक्तियुक्त कारण बतलाया गया, ऐसी स्थिति में अब और समय दिया जाना उचित प्रतीत नहीं होता, क्योंकि प्रकरण न्यायाधिकरण में 2004 से लम्बित होकर काफी पुराना है। इसी प्रक्रम पर न्यायाधिकरण द्वारा आज जब पत्रावली का अवलोकन किया गया तो यह पाया गया कि सम्प्रेषित निर्देश/रेफ्रेन्स में अप्रार्थी नियोजक द्वारा प्रार्थी श्रमिक को निश्चित रूप से कब सेवा से मुक्त/पृथक किया गया, इस तिथि का कोई उल्लेख नहीं है। अतः यह स्थिति स्पष्ट नहीं है कि यह न्यायाधिकरण अप्रार्थी द्वारा प्रार्थी श्रमिक की कौनसी तिथि, सेवा पृथक तिथि मानकर अप्रार्थी के कृत्य की उचितता एवं वैधता का विनिश्चय करेगा? इस सम्बन्ध में माननीय राज. उच्च न्यायालय द्वारा पारित न्यायदृष्टांत "2003 डब्ल्यू.एल.सी.(राज.) यू. सी. पृष्ठ 424— महावीर कण्डक्टर बनाम नन्दकिशोर" में यह प्रतिपादित किया गया है कि सेवाओं के पर्यवसान की तिथि का रेफ्रेन्स में उल्लेख नहीं होने से श्रम न्यायालय किसी कर्मकार के कथनानुसार पर्यवसान की तिथि को स्वीकार कर निर्देश/रेफ्रेन्स की शर्तों में सुधार, संशोधन या उपान्तरण करने में सक्षम नहीं है एवं ना ही न्यायालय को पक्षकारों की सहमति से ऐसी अधिकारिता प्राप्त होती है। अतः माननीय उच्च न्यायालय द्वारा निर्देश/रेफ्रेन्स में कर्मकार की सेवा पर्यवसान की तिथि वर्णित नहीं होने से अधिनिर्णय को अपास्त कर दिया गया। इस उक्त न्यायनिर्णय में प्रतिपादित सिद्धांत के अनुसार जहाँ निर्देश/रेफ्रेन्स में सेवा से हटाने, मुक्त करने या पृथक करने की तिथि का अंकन नहीं है तो श्रम न्यायालय को उस तिथि को सही करने या संशोधन करने की अधिकारिता पक्षकारों द्वारा ऐसी तिथि सुझावित किये जाने पर भी प्राप्त नहीं हो जाती है। अर्थात् यदि निर्देश में सेवा से मुक्ति, पृथक या हटाने की तिथि का कोई अंकन नहीं है व दोनों ही पक्षकार ऐसी तिथि यदि बता भी देते हों तो भी श्रम न्यायालय को उस बतायी गयी तिथि को मानकर उसके आधार पर निर्देश/रेफ्रेन्स उत्तरित करने का अधिकार प्राप्त नहीं हो जाता है। इस न्यायनिर्णय के पैरा सं.11 में माननीय उच्चतम न्यायालय द्वारा "मदनपालसिंह बनाम उत्तरप्रदेश राज्य व अन्य—एआईआर 2000 एस.सी. 537" के निर्णय को विवेचित किया गया है तथा अन्त में यह निष्कर्ष निकाला गया कि श्रम न्यायालय निर्देश में वर्णित बिन्दुओं तक ही सीमित क्षेत्राधिकार रखता है एवं उसको पक्षकारों के नामों में निर्देश से परे जाकर संशोधन आदि का अधिकार प्राप्त नहीं होता। यदि नामों या तिथि आदि में कोई परिवर्तन या अंकन कराना है तो पक्षकारों को समुचित सरकार के समक्ष इस बाबत पक्ष रखकर उसमें संशोधन कराना होगा, परन्तु श्रम न्यायालय को ऐसा संशोधन करने की अधिकारिता नहीं है। अतः इसी निर्णय को आधार मानते हुए माननीय उच्च न्यायालय द्वारा उक्त मामले में श्रम न्यायालय द्वारा पारित अधिनिर्णय को क्षेत्राधिकार के अभाव का मानते हुए अपास्त कर दिया गया।

7. अब यह न्यायाधिकरण हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक को अप्रार्थी नियोजक द्वारा कौनसी तिथि, सेवा से पृथक किये जाने की तिथि मानकर अप्रार्थी के उक्त कृत्य की उचितता एवं वैधता का विनिश्चय करेगा तथा क्या यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि मानकर प्रकरण का गुणावगुण पर विनिश्चय कर सकता है अथवा निर्देश/रेफ्रेन्स में संशोधन करने की अधिकारिता रखता है? इस सम्बन्ध में

माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" के पेरा संख्या 12 का उल्लेख किया जाना न्यायसंगत है जिसमें माननीय उच्च न्यायालय द्वारा रेफ्रेन्स के निबन्धन या सेवा समाप्ति तिथि में संशोधन आदि बाबत निम्न स्थिति प्रकट की गयी है:-

"Thus, in view of the above, I reach the inescapable conclusion that the Labour Court has no competence to correct/modify/amend /alter the terms of the reference or mention the date of termination etc., or proceed with the reference and accepting the date of termination as suggested by the workman and in case it does so, the award becomes nullity, being without jurisdiction, based on the bad reference."

8. अतः माननीय राज. उच्च न्यायालय द्वारा पारित उपरोक्त न्यायदृष्टांत के प्रकाश में हस्तगत मामले में यह न्यायाधिकरण पक्षकारों द्वारा सुझायी गयी तिथि/नाम आदि को संशोधित तिथि/नाम मानकर प्रकरण को गुणावगुण पर निस्तारित किये जाने की अधिकारिता नहीं रखता है। इस प्रकार माननीय उच्चतम एवं माननीय उच्च न्यायालय द्वारा ऊपर विवेचित किये गये न्यायनिर्णयों में प्रतिपादित सिद्धांतों के अनुसार हस्तगत प्रकरण में इस न्यायाधिकरण को ऐसे पक्षकारों का संशोधन प्रस्ताव स्वीकार किये जाने की अधिकारिता नहीं होने से इस न्यायाधिकरण की राय में यह न्यायाधिकरण यदि कोई अधिनिर्णय पारित भी करता है तो वह क्षेत्राधिकार के अभाव का होकर शून्य होगा। इन न्यायनिर्णयों के खण्डन में या अन्य कोई न्यायनिर्णय ऐसा पेश भी नहीं किया गया जिसमें कि ऊपर वर्णित स्थिति होने के बावजूद भी न्यायाधिकरण को निर्देश अधिनिर्णित करने का अधिकार प्राप्त हो। अतः कुल मिलाकर स्थिति उक्त न्यायनिर्णयों के ही अभी तक प्रभावशील होने की पायी जाती है। माननीय उच्च न्यायालय एवं माननीय उच्चतम न्यायालय द्वारा पारित उक्त न्यायनिर्णयों में प्रतिपादित सिद्धांतों से यह न्यायाधिकरण आबद्ध है। अतः ऐसी परिस्थिति में सम्पूर्ण विवेचन के उपरान्त इस न्यायाधिकरण की राय में इतना ही कहना पर्याप्त है कि हस्तगत निर्देश/रेफ्रेन्स में प्रार्थी श्रमिक को अप्रार्थी नियोजक द्वारा कौनसी तिथि से सेवा पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से यह न्यायाधिकरण ऐसे निर्देश में कोई संशोधन कर अधिनिर्णय पारित करने की अधिकारिता नहीं रखता है एवं यदि पक्षकार सक्षम सरकार से इस बाबत निर्देश/ रेफ्रेन्स में संशोधन कराकर न्यायाधिकरण में पेश करते हैं तो न्यायाधिकरण ऐसा संशोधन प्राप्त होने पर प्रकरण में विधि अनुसार कार्यवाही कर सकेगा, परन्तु इस प्रक्रम पर फिलहाल यह मामला इस न्यायाधिकरण के क्षेत्राधिकार के अभाव का पाया जाता है।

परिणामस्वरूप भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा प्रासांगिक आदेश दिनांक 8/4/2004 के जरिये सम्प्रेषित निर्देश/रेफ्रेन्स विवाद को इसी अनुरूप उत्तरित किया जाता है कि माननीय राजस्थान उच्च न्यायालय द्वारा पारित उक्त न्यायदृष्टांत "2003 डबल्यू.एल.सी.(राज.) यू.सी. पृष्ठ 424—महावीर कण्डक्टर बनाम नन्दकिशोर" में प्रतिपादित सिद्धांत के अनुसरण में हस्तगत निर्देश/रेफ्रेन्स में वर्णित प्रार्थी श्रमिक गिरधारी लाल परमार को अप्रार्थी नियोजक द्वारा कौनसी तिथि को सेवा से पृथक किया गया है, ऐसी तिथि का कोई अंकन नहीं होने से व इस न्यायाधिकरण को पक्षकारों द्वारा सुझायी गयी तिथि को स्वीकार किये जाने की अधिकारिता नहीं होने से हस्तगत निर्देश/रेफ्रेन्स में अधिनिर्णय पारित किया जाना शून्य एवं क्षेत्राधिकार के अभाव का होगा। पक्षकार यदि सक्षम सरकार से उक्त तिथि बाबत निर्देश/रेफ्रेन्स में संशोधन/अंकन कराकर न्यायाधिकरण के समक्ष पेश करेंगे तो न्यायाधिकरण गुणावगुण के आधार पर विधि अनुसार आगे प्रकरण के निस्तारण की कार्यवाही कर सकेगा।

जगमोहन शर्मा, न्यायाधीश

नई दिल्ली, 13 सितम्बर, 2017

का.आ. 2198.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मसर्स सिंगरेनी कोयलरीज कम्पनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 11/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22.08.2017 को प्राप्त हुआ था।

[सं. एल-22012/172/2013-आई. आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th September, 2017

S.O. 2198.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of M/s. Singareni Collieries Company Ltd. and their workmen, received by the Central Government on 22.08.2017

[No. L-22012/172/2013 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD**

Present: Sri Muralidhar Pradhan , Presiding Officer

Dated the 14th day of June, 2017

INDUSTRIAL DISPUTE No. 11/2014

Between:

The Vice President,
(Sri K. Devaiah),
Godavari Loya Boggugani Karmika Sangh(IFTU),
Qtr.No. D-166, RK-5 Colony,
Coal Chemical Complex, Mancherial (M).
Adilabad – 504 302

... Petitioner Union

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Sreerampur Area, Sreerampur (P.O.)-504 303.
Adilabad Distt.

...Respondent

Appearances:

For the Petitioner : Sri M.V.L. Narasaiah, Advocate

For the Respondent : M/s. P.A.V.V.S. Sarma & Vijaya laxmi Panguluri, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/172/2013-IR(CM-II) dated 17.12.2013 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action of the General Manager, M/s. Singareni Collieries Company Ltd., Sreerampur Division, Adilabad Distt. in disallowing the service from 10.5.2009 to 16.9.2010 and not granting wages all other consequential benefits to Sri A. Chandra Babu, Overman is justified or not? If not, to what relief the workman is entitled for?”

The reference is numbered in this Tribunal as I.D. No. 11/2014 and notices were issued to the parties concerned.

2. The case is posted for filing of claim statement by the Petitioner union. In spite of availing several opportunities, the Petitioner union and the Respondent remained absent and there is no representation on behalf of the Petitioner union which clearly indicates that perhaps the dispute of the Petitioner union has already been settled. In the circumstances stated above, it is felt that the Petitioner union has no claim to raise. Thus, ‘No dispute’ award is passed.

Award is passed accordingly. Transmit.

Typed to my dictation by Smt. P Phani Gowri, Personal Assistant and corrected by me on this the 14th day of June, 2017.

MURALIDHAR PRADHAN, Presiding Officer

Appendix of evidence

Witnesses examined for the
Petitioner

NIL

Witnesses examined for the
Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 14 सितम्बर, 2017

का.आ. 2199.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एन.एल.सी. लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—सह—श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 22/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.08.2017 को प्राप्त हुआ था।

[सं. एल-22012/95/2014-आई. आर. (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 14th September, 2017

S.O. 2199.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2015) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of M/s. NLC Ltd. and Other and their workmen, received by the Central Government on 23.08.2017

[No. L-22012/95/2014 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT,
CHENNAI**

Tuesday, the 11th July, 2017

Present: K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 22/2015

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of NLC and Another and their workman]

BETWEEN :

Sri A. Sundar

: 1st Party/Petitioner

AND

1. The Chief General Manager : 2nd Party/1st Respondent
M/s. NLC Ltd. Mine-1 & 1A
Neyveli-607803
2. Sri S. Tamizhmani, NLC Contractor : 2nd Party/2nd Respondent
489/2, Nayagi Street, Annai Theresa Avenue
Periyakurichi Neyveli-2

Appearance

- For the 1st Party/Petitioner : M/s. Ajoy Khose, Advocates
For the 2nd Party/1st Respondent : M/s. N. Nithianandam, Advocates
For the 2nd Party/2nd Respondent : Sri D. Muthukumar, Advocate

The Central Government, Ministry of Labour & Employment, vide its Order No. L-22012/95/2014-IR (CM.II) dated 19.02.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the Management of M/s Neyveli Lignite Corporation Ltd., Mine-I, Neyveli in removing the name of Sri A. Sunder from the Seniority List maintained as per the Supreme Court decision and denial of becoming member of INDCOSERVE Society is legal and justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of notice both petitioner and the Respondent entered appearance through their counsel and fled Claim and Counter Statement respectively. The Second Respondent who was subsequently impleaded has also filed Counter Statement. The petitioner has filed rejoinder in answer to the Counter Statement filed by the First Respondent.
3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner has joined as Contract Labour in Thermal Power Station-I of the First Respondent in the year 2000. From 2003 onwards he was continuously employed in Mines-I. Since the contract labors were exploited by the individual contractors the First Respondent formed an Industrial Service Cooperative Society shortly called INDCOSERVE Society in the year 1990. The Society did not enroll all the contract labourers as its members. While even the juniors were enrolled as members of the Society many senior workmen including the petitioner were left out. In 1995 a settlement was entered into to abolish contract labour system in the entire production area and also to absorb the workmen employed through INDCOSERVE Society in production areas as regular workers, in a phased manner. Since contract labourers who were not members of the Society but were working in production areas were denied absorption a Writ Petition was filed seeking to regularize the contract labourers based on Seniority without reference to membership in INDCOSERVE Society. This WP was allowed and the Writ Appeals filed against the order in the said Writ Petition were dismissed also. After dismissal of the Writ Petition the First Respondent issued circular to collect the details of the service particulars of the contract labourers. The petitioner though studied upto 8th Standard did not possess a copy of the Transfer Certificate issued to him. He was not having any document to show his date of birth. So he submitted the form for inclusion of his name in the Seniority List without filling up the column of date of birth, age, etc. However, the First Respondent mentioned his date of birth as 01.07.1955 in the seniority list prepared by it. In the meantime the First Respondent filed Special Leave Petition before the Hon'ble Supreme Court against order in the Writ Appeals referred to earlier. The Supreme Court gave a direction that the contract labourers can make their objections if there is any mistake made in the Seniority List of contract labourers, with regard to their service particulars. Based on this direction the First Respondent issued a circular on 30.05.2013 directing the contract labourers to submit their objections to the Seniority List. only after issue of this circular the petitioner came to know that his date of birth and age were wrongly recorded in the Seniority List as 01.07.1955. In the meantime the petitioner was able to trace out his Transfer Certificate which gives his date of birth as 08.01.1959. The petitioner made a representation on 14.06.2013 alongwith the Transfer Certificate requesting to make necessary correction in the Seniority List regarding this date of birth and to give him absorption based on his seniority. However, the petitioner was made to retire from service on 30.06.2014 based on the entry made by the First Respondent regarding his date of birth. The dispute is raised accordingly. The First Respondent ought to have considered the objections of the petitioner and should have corrected his date of birth based on his Transfer Certificate on the basis of the direction given by the Supreme Court. An Award may be passed holding that the action of the First Respondent in terminating the petitioner from service w.e.f. 01.07.2013 is illegal and also directing the First Respondent to reinstate the petitioner with continuity of service, backwages and all other attendant benefits and to restore his name in the Seniority List of contract labourers and to absorb him as regular worker, as per the seniority list.

4. The First Respondent has filed Counter Statement contending as below:

The dispute is not maintainable in law or on facts. There was no employer-employee relationship between the petitioner and the First Respondent. The non-impleadment of the respective contractors who had employed the petitioner is fatal to the dispute. Alteration of date of birth sought for by the petitioner by representation dated 14.06.2013, only 15 days prior to his admitted date of superannuation is legally impermissible. The dispute is not maintainable under Section-2K of the Industrial Disputes Act as there was no employer-employee relationship between the petitioner and the First Respondent. The First Respondent is a Public Sector Undertaking engaged in mining lignite and generation of power. It has a workforce of about 18000 of which 14000 are in the workmen category. The workmen are governed by the Certified Standing Orders of the First Respondent. All recruitment and appointment are in terms of the rules and regulations of the First Respondent. The First Respondent had been engaging private contractors for executing various types of works. The contractors shall submit a list of persons employed by them with the requisite details with a request to issue temporary gate passes to them till completion of the contract work. On verification of the details temporary passes are issued to the contract workers. It is the policy of the First Respondent that the respective contractors shall not engage contract workers who attained 58 years of age. The petitioner was engaged by S. Thamizhmani (the Second Respondent), one of the Contractors at the time when he attained the age of superannuation on 01.07.2013. The date of superannuation was determined based on the details furnished by the petitioner and maintained by the Contractor. As per the direction of the Hon'ble Supreme Court the First Respondent had collected details of the contract workmen. In the format submitted by him the petitioner had left the column for date of birth blank. He did not submit any documents in support of his date of birth, age and educational qualification. As per the details submitted by the petitioner he had completed the age of 58 in 2008. On collection of details of the contract workers in terms of the direction of the Supreme Court a provisional seniority list of contract workers was prepared by the First Respondent based on the details submitted by the respective contract workers. The list was displayed in the respective units. The petitioner had opportunity to make his objection at that time regarding any discrepancy in the date of birth, but he had failed to raise any objection. The Seniority List was published again in January 2011 calling upon objections, but this time also the petitioner had not raised any objection. The Supreme Court had disposed the Civil Appeal pending before it on 16.04.2013 with certain directions. On the basis of the direction the updated final seniority list was made available in all the units of the First Respondent from 30.05.2013 and this was displayed in the respective units also on the same date calling for objections to be given within one month from 01.06.2013. The updated Seniority List did not contain the name of the petitioner as he had attained 58 years in the month of June 2013. The petitioner had sufficient opportunity to represent his grievances regarding the date of birth. He did not utilize them. The petitioner is not entitled to any relief.

5. The Second Respondent has filed Counter Statement contending as below:

The Second Respondent is only a Contractor. He has no right to interfere in the Management of the First Respondent. When the petitioner produced his bio-data to the Second Respondent during the year 2012-2013 these were submitted to the NLC Management for getting security clearance and gate pass. After scrutinizing the documents, on 21.06.2016, the First Respondent decided to relieve the petitioner and some other workers as they have completed the age of 58 years. This order was intimated to the petitioner by the Second Respondent. The grievance of the petitioner is only against the First Respondent. During 2014-2015 the petitioner had worked under the Contractor by name Kuppusamy Constructions. Now he is working under M/s G.R. Engineering. The claim is liable to be dismissed.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and MW2 and documents marked as Ext.W1 to Ext.W16 and Ext.M1 to Ext.M8.

7. **The points for consideration are:**

- (i) Whether the First Respondent is justified in removing the name of the petitioner from the Seniority List prepared as per the direction of the Supreme Court?
- (ii) What, if any is the relief to which the petitioner is entitled?

The Points

8. The petitioner had been working as a contract labour with the First Respondent. He had worked through the Second Respondent and prior to that through other Respondents. The First Respondent had prepared a Seniority List in respect of those contract workers who were members of the INDCOSERVE Society. A Writ Petition was filed challenging the decision to prepare Seniority List including the members of the INDCOSERVE Society only. The order in the Writ Petition directed the First Respondent to prepare a Seniority List including contract workmen who had worked under other Contractors also. The petitioner also had furnished particulars as called for but without giving his date of birth. According to the petitioner he was not having any document regarding his date of birth and as such he was not in a position to furnish the same. It is alleged by the petitioner that his date of birth was shown as 01.07.1955 by the First Respondent without any basis. The First Respondent had not been permitting contract labours who had attained the age of 58 years to work for it. In Civil Appeal 1629/11 a direction was given by the Supreme

Court to give opportunity to the contract workmen to raise the objection regarding the Seniority List. Even as admitted by the First Respondent the petitioner had given his objection by representation dated 14.06.2013. According to the petitioner he had received his Transfer Certificate which was missing by this time and had shown his correct his date of birth in the representation. However, this was not considered by the First Respondent and the petitioner had to retire from his job at the end of June 2013 on the basis of the date of birth that was already available with the First Respondent. According to the petitioner his objection should have been considered by the First Respondent and he should have been allowed to continue in the job and retained in the Seniority List and absorbed in the First Respondent as and when his turn arrived.

9. The only question to be considered is whether the First Respondent should have considered the representation given by the petitioner on the basis of the direction given by the Supreme Court and acted accordingly. The petitioner has given evidence stating his grievances. His Proof Affidavit is a replica of the Claim Statement filed by him. The petitioner has produced Ext.W2 the order in Writ Petition No. 8/96 on the file of the Madras High Court which has given order in favour of the contract workers other than those who are members of the INDCOSERVE Society and Ext.W3 the order in Writ Appeals by which the contentions of the First Respondent were rejected. Ext.W9 is the order of the Apex Court. This order states that if the workmen have any grievance with the Seniority List they can submit their grievance to the Management who shall consider the same.

10. The case of the Respondent is that all along opportunities have been given to the contract workers to raise objections regarding the Seniority List but opportunity was not availed by the petitioner. Ext.M1 is the communication to display the Seniority List of contract workmen in all the units. However, this does not call for any objection from the workmen. Ext.M2 is said to be the bio-data prepared by the First Respondent on the basis of information submitted by the petitioner. In this the date of birth of the petitioner is given as 01.07.1955. However, even as deposed by MW1 this date of birth was provided by the First Respondent and was not one furnished by the petitioner. By Ext.M3 the First Respondent had directed to display the Seniority List of private contract workmen, INDCOSERVE Workmen and HOWSICO Workmen based on the interim order of the Supreme Court. Ext.W4 is part of the Seniority List published by the First Respondent. The name of the petitioner appears as S.No. 939 in this. His date of birth is shown as 06.03.1955 and his date of engagement as 01.04.1987. Ext.M4 is the publication of the Seniority List of contract workers calling for objections in terms of the direction of the Supreme Court. It is on the basis of this the petitioner has submitted his representation stating that his date of birth requires correction and he is entitled to continue in service on the basis of this. However, the First Respondent did not consider the objection at all. According to the First Respondent the name of the petitioner was removed from the Seniority List as he was to attain the age of 58 years by the end of June 2013 as per the details of date of birth available with it.

11. The petitioner has produced the Transfer Certificate before this Tribunal and the same has been marked as Ext.W16. The First Respondent has not questioned the authenticity of this document which gives the date of birth of the petitioner as 08.01.1959. The only question that was put to the petitioner regarding this was that the District in which the school that had issued the Transfer Certificate to the petitioner is situated was not given in the Certificate. A perusal of Ext.W16 gives no room for doubt about the authenticity of the document. It is a very old Transfer Certificate, almost torn on all sides. The format for the Certificate is in a half sheet and contains the Number, T.C. Number, Admission Number, etc. So it is very much clear from this document that the real date of birth of the petitioner, the date of birth as given in the school records is 08.01.1959. If this has been accepted by the First Respondent as the date of birth the name of the petitioner would have remained in the Seniority List and he could have been absorbed in the service of the First Respondent as and when the time reached.

12. It is not disputed by the First Respondent that in answer to the publication of the Seniority List calling for objection in terms of the direction of the Supreme Court the petitioner had given objection specifying 08.01.1959 as his correct date of birth. According to the First Respondent the objection was taken for consideration by the Management only after June 2013 and by then the petitioner had attained the age of 58 years. It is very much apparent that the petitioner was entitled to have his representation for correction of date of birth considered as directed by the Supreme Court. This was not done only because the Management had decided to consider the objections probably after the period of one month given for raising the objection had ended. So far as the First Respondent is concerned the matter of service of the petitioner might have been of least importance. But for the petitioner himself it was a matter of life and death. He had been working for the First Respondent for years and years, though under different Contractors. He was harping on becoming a regular worker of the First Respondent based on the Seniority List. There was no justification for the First Respondent in not considering the objection which was given in time. When direction was given by the Apex Court there was no justification at all in denying this on the ground that he did not avail the opportunities given to him to furnish his objections on earlier occasions.

13. The counsel for the petitioner has referred to the decision of the Apex Court in Civil Appeal No. 377/81 in support of his argument that the action of the First Respondent was not in the proper spirit. It was a case where alteration in the accepted birth date has been made without giving opportunity of hearing to the concerned appellant. In the present case though the petitioner has submitted an objection the First Respondent unilaterally decided to terminate the petitioner from his job without considering the objection. The counsel for the petitioner has referred to the decision

of the Madras High Court in Writ Appeal No. 560/2013 also in this respect. Here the Madras High Court has quoted an earlier decision of the Apex Court which held that when substantial justice and technical considerations are pitted against each other the cause of substantial justice is to be preferred and the Court may in the larger interests of administration of justice may excuse or overlook a mere irregularity or a trivial breach of law for doing real and substantial justice to the parties and pass orders which will serve the interests of justice best. The contentions raised by the First Respondent that the name of the petitioner was already removed from the Seniority List as he was about to attain the age of 58 years as per the details already available is only a trivial one which is to be rejected.

14. One argument that has been advanced on behalf of the First Respondent is that the dispute is not maintainable as there was no employee-employer relationship between the petitioner and the First Respondent. It was on the basis of the contention of the First Respondent the Second Respondent under whom the petitioner was working at the time has been impleaded. In any case preparation of Seniority List as directed by the Apex Court was the task of the First Respondent. On the basis of the very direction this Tribunal is entitled to adjudicate on the question of the correctness of the Seniority List.

15. Now the question is what is the relief to be given to the petitioner. The issue revealed by the order of reference is the removal of the name of the petitioner from the Seniority List. In the Claim Statement he seeks to be reinstated with backwages and to be included in the Seniority List and to absorb him as a regular worker. He is asking for backwages also. However, it has come out during the evidence that even after the petitioner attained the age of 58 years he has been working for the First Respondent through some other Contractors. He has admitted this during his cross-examination. His claim for backwages need not be acceded to.

16. If the correct date of birth was accepted the date of superannuation of the petitioner would be 07.01.2019. If the petitioner was retained in the Seniority List he might have been absorbed in service by this time. The petitioner is entitled to be in the Seniority List and has to be absorbed as per the order in the list.

Accordingly, an Award is passed as below:

- The correct date of birth of the petitioner is found to be 08.01.1959.
- The First Respondent is directed to include the name of the petitioner in the Seniority List for contract workers.
- The petitioner shall be absorbed in the service of the First Respondent as and when his turn as per the Seniority List comes.
- If those below the petitioner in the Seniority List are already absorbed the petitioner shall be absorbed in the service of the First Respondent with effect from the date on which he would have been absorbed if his name was retained in the Seniority List and shall be paid salary and other emoluments as on the said date.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th July, 2017)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	WW1, Sri A. Sundar
For the 2 nd Party/1 st Management	:	MW1, Sri C. Thiagaraju
For the 2 nd Party/2 nd Management	:	MW2, Sri S. Thamizhmani

Documents Marked:

On the Petitioner's side

Ext.No.	Date	Description
Ext.W1	18.05.1995	12(3) Statement
Ext.W2	15.05.2002	Order in W.P. No. 8/1996
Ext.W3	06.02.2008	Order in W.A. No. 2045&2529/2002
Ext.W4	-	Seniority List issued by the 2 nd Party
Ext.W5	-	Entry pass Identity Card

Ext.W6	-	Format for collection of details of contract workman
Ext.W7	-	Format for collection of details of 1 st Party
Ext.W8	-	EPF Receipt of 1 st Party
Ext.W9	16.04.2013	Order in Civil Appeal No. 1629/2011
Ext.W10	14.06.2013	Letter given to the 1 st Party
Ext.W11	7/2014	Counter Statement filed by the 2 nd Party before the ALC
Ext.W12	-	Rejoinder filed by the 1 st Party
Ext.W13	05.11.2014	Reply to rejoinder filed by the 2 nd Party
Ext.W14	12.11.2014	Failure Report
Ext.W15	19.02.2015	Order of Reference
Ext.W16	13.06.1973	Transfer Certificate

On the Management's side

Ext. No.	Date	Description
Ext.M1	09.11.2010	Publication of seniority list of private contract workmen and calling for objections circular issued by the 2 nd Party
Ext.M2	-	1 st Party's bio-data prepared by the 2 nd Party on the basis of information submitted by him
Ext.M3	03.01.2011	Publication of seniority list of contract workmen
Ext.M4	30.05.2013	Publication of seniority list of contract workers and calling for objections
Ext.M5	-	Response sheet with bio-data of the petitioner
Ext.M6	-	Details of the petitioner working under various Contractors
Ext.M7	29.04.2013	Contract Agreement order of the 1 st Respondent
Ext.M8	21.06.2013	Relieving Order of the 1 st Respondent